

Appellant's Appendix

Case A145657

Martin v. Google, Inc.

Court of Appeal

First Appellate District, Division 2

San Francisco Superior Court Case Number:
CGC-14-539972

Plaintiff: S. Louis Martin, Pro Se

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21 September 2015

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6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF SAN FRANCISCO**

9

10	S. LOUIS MARTIN,) Case Number CGC-14-539972
11	Plaintiff)
12	V) Complaint
13	GOOGLE, INC.) Anti-trust
14	Defendant)
15) 17 June 2014
16)

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22

23 THE CASE AGAINST GOOGLE

24

25

26 Google Inc., which monopolizes the search-engine business, has caused grievous
27 harm to CoastNews.com, an arts, entertainment, cultural, and travel web site that
28 also includes the San Francisco Restaurant and Dining Guide. Moreover, Google
29 has knowingly done so in the ways described below.

30

31 **Violation 1: Antitrust Law, Both at Smaller Business and Consumer Levels**

32

33 *Unfair to Smaller Business*

34

35 First, Google returns biased search results that favor its own paid advertisers and
36 Google-owned companies. The FTC confirmed this in a January 2013 ruling. The
37 EU has recently confirmed this as well, and the UK is now taking up the issue.
38 While this may not financially impact each and every website, it does impact
39 most; and it definitely impacts a website like CoastNews.com, which includes a
40 restaurant guide among other sections. When you search on Google, Bing, and
41 Yahoo, please see the results of a search for these keywords: "San Francisco
42 restaurant guide North Beach". Google does not show CoastNews.com at all; Bing
43 shows CoastNews.com as #1 out of some 32 million (the top position), and Yahoo
44 shows CoastNews.com as #1 as well. (This can of course vary a bit from day to
45 day.) Try the same search with "Chinatown" or "Nob Hill" substituted for "North
46 Beach". The results are much the same. Bing and Yahoo give CoastNews.com top
47 ratings; CoastNews.com does not appear on Google.

48

49 The above makes it impossible for CoastNews.com to compete against Google
50 properties and advertisers, as Google absolutely dominates the search business.
51 Thus it constitutes an unfair business practice. No matter how good
52 CoastNews.com is, Google, by virtue of its monopoly status and biased search
53 results, makes CoastNews.com invisible to potential customers. As a
54 "disappeared" website, no fair chance exists for CoastNews.com to compete
55 against Google's advertisers and properties.

56

57 *Harm to Consumer*

58

59 But the situation is even worse than it looks. Google provides search results that
60 mislead its users. Google does not provide honest results to queries; it provides
61 results or answers that are paid for directly or indirectly. If Google were not paid,
62 it would provide other results based on the best possible answers to the search
63 query, not the most profitable answer to Google. While in the case of a restaurant
64 search, you could be directed to the worst restaurant in the city; in the case of a
65 pharmaceutical question, you might be directed to a drug that would kill you.

66

67 Think the latter is fanciful? Consider the LA Times story of 22 May 2014 that
68 states: "Officials from Orange and Santa Clara counties—both hit hard by
69 overdose deaths, emergency room visits and escalating medical costs associated
70 with prescription narcotics—contend the drug makers violated California laws
71 against false advertising, unfair business practices and creating a public nuisance."

72

73 Clearly there is something wrong here—something that even a child would
74 understand. And the evidence is indisputable—it does not take profound
75 intelligence to grasp—and surely any honest, unbiased court of law should be
76 able to understand this. Yet Google continues to deny that it provides biased
77 search results and goes unpunished by the courts.

78

79 Note: Biased search results violate fundamental expectations of fairness and
80 honesty. It is as if a calculator, asked for the sum of $2 + 2$, says the answer is 5.
81 The user, feeling that something is wrong, might say, "I think there is problem
82 here." Google's replay would be, "Well, the number 5 paid us to say it; get used to
83 it."

84

85 This is Orwellian and it is perjury for profit. Google should be ashamed but clearly
86 is not.

87

88 But let us take this even further: Suppose you take a string of say 7 to 15 words
89 (not quotes around the string) from a story by CoastNews.com and Google shows
90 that they come from a list of its advertisers, while Bing and Yahoo correctly show
91 them as coming from CoastNews.com. Now suppose you surround the search
92 words in quotes (which means the words must appear in the exact order listed).
93 Then Google relents and admits they come from CoastNews.com. Google then
94 has no choice. (Interesting note: This example proves that Google does in fact
95 know the true source of the word string.) But given a choice, Google will lie and
96 say the words come from its paid advertisers or own properties. By the same
97 token, lines from Shakespeare's Hamlet might be attributed to an ad from Proctor
98 & Gamble. (At the time of this writing, 15 May 2014, Google has made a change
99 to avoid this grossly deceptive practice, at least in most cases. In direct quotes,
100 Shakespeare is now attributed to Shakespeare and CoastNews.com is attributed
101 to CoastNews.com.)

102

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104

105

106 AdSense, AdWords

107

108 It would be nice to say that the story of Google Search evil ends with the harm to
109 consumers and smaller business described above, but there is even more evil
110 lurking in the Google business model. It goes by two names: AdWords and
111 AdSense. AdWords is the advertising sales part of the Google empire; AdSense is
112 the advertising publishing part of the empire. Via AdWords, companies or
113 individuals can purchase advertising on a variety of websites from Google. Via
114 AdSense, companies or individuals can offer advertising space on their websites,
115 allowing Google to place ads on those sites via Google code that the publisher
116 embeds on its pages. But here too we encounter anti-trust violations: AdWords
117 and AdSense are the only games in town. There are simply no viable alternatives
118 for buying or selling advertising on the Internet. And Google has made quite sure
119 of this. Part of the AdWords and AdSense contracts stipulates that buyers and
120 sellers will do business with no other entity than Google. If a company or business
121 is detected by the Google "cop" buying advertising space or selling it to anyone or
122 thing other than Google, that company or individual will be cut off. And
123 furthermore, they will find, if they didn't know it already, that they have no viable
124 alternative. The buyer will find their product or service "disappeared," for all
125 practical purposes, on the Internet. The seller will find that they have no one to
126 sell their space to. Effectively, it is Internet homicide with the murderer walking
127 away smug, rich, and free.

128

129

130 **Violation 2: Deceptive Business Practice**

131

132 Second, on 2 May 2013 Google ceased delivering ads to CoastNews.com, which
133 has been a Google AdSense partner for over eight years. Google falsely charged
134 CoastNews.com with being a "pornography" web site. Nothing could be further

135 from the truth. Please see <http://www.coastnews.com>. If you are looking for lewd
136 or lascivious content, you are going to be deeply disappointed on
137 CoastNews.com.

138

139 Google cited an article on a popular nudist colony in the Santa Cruz mountains,
140 giving us three days to remove the article or the ad code from the page. (The ad
141 code allows Google to deliver ads to a page.) Reluctantly, we removed the ad
142 code but were then told that there could be other, though unspecified, problems
143 on CoastNews.com pages.

144

145 This was all disingenuous. Some research reveals what is partly going on here:
146 Google is trying to "sanitize" all pages on which a Google ad might appear.
147 Moreover, they are pursuing this goal as a kind of holy war against certain words.
148 Words such as "health," "pregnancy," "family planning," "childbirth," "sex," or
149 "escort" could now get the writer/publisher into deep trouble—regardless of
150 context or meaning. Sentences such as, "She massaged his injured leg at the
151 clinic" or "The lovely hostess escorted the handsome couple to their table" or "I
152 did not notice the sex of the snake that bit my hand" could be flagged as
153 pornographic or "adult" even though they clearly were not. And Google was
154 telling us to sanitize pages that it has placed ads on for more than five years! As
155 CoastNews.com contains no pornographic material, this is an unreasonable
156 demand; and the implication that such words as "sex" or "escort" automatically
157 imply pornographic or adult content is childish; such false identification simply
158 reveals the shortcomings of Google software to detect the actual meaning of
159 sentences. This is a software problem, not a content problem. Such concerns
160 place an unfair burden upon working writers trying to make a living at their craft
161 and publishers trying to deliver authentic content, while grossly underestimating
162 the intelligence of readers.

163

164 Note: Google is the biggest pornography site in the world. Hence, the above is
165 ironical. Go to images.google.com and try a search on "naked young women" and
166 you will get the shock of your life. The UK has complained about this but so far
167 Google chooses to do nothing. One might fairly ask: Why does Google refuse to
168 remove its pornography web sites? Simply money. They used to run ads on those
169 sites, but due to complaints about directly profiting from pornography, Google
170 removed the ads but did not remove the sites themselves. Why? Because if they
171 removed the sites, then customers might leave the Google Search site for other,
172 non-Google search engines. That would mean downstream loss of revenue from
173 other ads. It is entirely analogous to a customer going to Macy's for a pair of
174 shoes, not finding the shoes he or she wants, then going over to Saks Fifth
175 Avenue. In many cases the customer will continue to shop at Saks, and not go
176 back to Macy's. Thus Google avoids a revenue loss by providing its pornography
177 sites, which one should note include child pornography. (Easy for the court to
178 prove by going to images.google.com and searching on "naked young women".)

179

180 It may also be the case that Google has chosen this course of action—accusing
181 CoastNews.com of pornography—simply as an excuse to get CoastNews.com out
182 of its restaurant revenue space, which is now very lucrative. Their morality
183 argument is actually a rather weak one, given Google's massive pornography
184 operations.

185

186 Note that an email inquiry sent to AdSense support was answered by an
187 automated responder that said, in Darth Vader fashion, that our account status
188 was too low to warrant a personal response; it said that we could only file an
189 automated appeal, which we subsequently did. Note that that email and its
190 response has been deleted from my gmail account, which constitutes email
191 tampering and destruction of evidence. Note also that the appeal that was
192 subsequently filed was denied by Google before being filed. This has been
193 reported by at least one other AdSense litigant. How open, or let us say unbiased,
194 is such an appeal process?

195 **Violation 3: Wanton Destruction of Business Property to Harm Competition**

196

197 But the damage to CoastNews.com goes even deeper. The result of Google
198 discontinuing ad delivery to CoastNews.com pages has left gaping holes on those
199 pages. Where ads once appeared, now there are inexplicable gaps in pages.
200 Surely Google knew what the result would be but did it anyway, leaving the
201 CoastNews.com web site severely marred aesthetically in the process. Three-days
202 notice of a shutdown of ad delivery is nothing other than wanton destruction. If
203 they do not resume ad delivery—and it appears they have no intention of doing
204 so—it will take months to weed Google ad code out of CoastNews.com pages and
205 restore their appearance. CoastNews.com has become the "collateral" damage of
206 the Google profit model, which recognizes no boundaries of fairness, decency,
207 morality, or the law. The "do no evil" motto of Google's founders has been
208 changed to "maximize evil."

209

210

211 **Summary**

212

213 In summary, Google has clearly violated antitrust law, both (1) harming the
214 consumer by providing false search results that are paid for by advertisers, or by
215 providing search results totally in favor of their own properties; and (2) making
216 small business competitors invisible and thus incapable of doing business on the
217 Internet. Furthermore, Google has engaged in egregiously deceptive business
218 practice by classifying CoastNews.com a pornography website, which it clearly is
219 not, when, ironically, Google is the largest pornography site in the world.
220 Additionally, Google has wantonly destroyed the website of a competitor by
221 withholding the display of advertising that it has delivered for over eight years.
222 These charges are clear, obvious, and irrefutable upon the smallest amount of

223 testing; and a heinous violation of business law. Moreover, refusal by the court to
224 take action simply implies complicity.

225

226 **Compensation and Punitive Damages**

227 For the above reason, CoastNews.com seeks 2.5 million USD in compensatory
228 damages for years of lost business and future growth, and 2.5 million USD in
229 punitive damages for the appalling behavior of Google.

230

231

232 Dr. S. Louis Martin

233 17 June 2014

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF SAN FRANCISCO

10 S. LOUIS MARTIN,
 11 Plaintiff,
 12 v.
 13 GOOGLE INC.,
 14 Defendant.

) CASE NO.: CGC-14-539972
)
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES IN SUPPORT OF**
) **DEFENDANT GOOGLE INC.'S**
) **DEMURRER TO PLAINTIFF'S**
) **COMPLAINT**
)
) Date: October 15, 2014
) Time: 9:30 a.m.
) Dept: 302
) Reservation No.: 081114-12
)
) Complaint Filed: June 17, 2014

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Introduction

1
2 *Pro se* plaintiff S. Louis Martin claims that he is entitled to have his website ranked
3 where he would like in Google's popular search results. He also alleges that Google must allow
4 him to participate in its advertising program and display advertisements on his website so that he
5 can make money from those ads. Both claims fail as a matter of law. Plaintiff's complaint
6 should be dismissed with prejudice.
7

8 First, Google's First Amendment rights bar any claims challenging Google's opinions
9 regarding search result ranking and ad placement. The California Supreme Court and other
10 courts have long recognized that opinions regarding how third-party content should be organized
11 and ranked are constitutionally protected and cannot be a basis for liability.

12 Second, Plaintiff's allegations regarding ad placement also fail under the
13 Communications Decency Act ("CDA"). The CDA immunizes Internet Service Providers like
14 Google from liability based on its decisions to restrict uses of its services that it or its users
15 consider objectionable. That immunity squarely applies here – the complaint specifies that
16 Google found a nude photograph on the Plaintiff's site objectionable and asked that it be
17 removed. Plaintiff claims that he does not find that content objectionable, but that does not
18 matter; the CDA merely asks whether Google or its users found the content objectionable. Given
19 that Google did, the CDA bars claims flowing from its decision to remove ads that were
20 displayed alongside these photographs.
21
22

23 Third, Plaintiff pleads in passing that Google's AdWords and AdSense agreements are
24 exclusive in that they "stipulate[] that buyers and sellers will do business with no other entity
25 than Google."¹ Even assuming *arguendo* that Google's First Amendment and CDA rights do not
26

27
28 ¹ AdWords is a program where websites can bid on search term keywords for the purpose of ad
placement on the Google search page. Complaint ("Compl.") at 4. AdSense is a program where
(continued...)

1 apply to this allegation, it fails to state a claim. First, the plain terms of Google’s standard online
 2 AdSense and AdWords agreements, which are publicly available, contain no such term.² Second,
 3 any claim premised on this conduct must plead that the conduct substantially foreclosed
 4 commerce in an identified market. Plaintiff does not. Nor does Plaintiff allege, as it must, any
 5 injury in fact suffered as a result of these agreements. For these reasons and others explained
 6 below, Google respectfully requests that Plaintiff’s complaint be dismissed, again, this time with
 7 prejudice.³

9 Summary of Plaintiff’s Allegations

10 I. ALLEGATIONS REGARDING SEARCH RESULTS

11 Plaintiff alleges that his website, CoastNews.com, has been discriminated against in
 12 Google search results because it is not a Google property. Compl. at 2-3. Plaintiff broadly
 13 alleges that Google has wrongly failed to list CoastNews.com at the top of search results and that
 14 the results Google does display are “deceptive.” Compl. at 3-5. As one example, Plaintiff
 15 alleges that Yahoo! and Bing, search engines that compete with Google, place his site in “the top
 16 position” whereas Google does not do the same. Compl. at 2-3.

18
 19
 20
 21 (…continued from previous page)

22 companies can place ad code on its webpage and if the user complies with Google’s policies, ad
 content can be delivered to the page. *Id.*

23
 24 ² Google attaches its AdSense and AdWords agreements, which are available to the public
 online, to this motion as Exhibits A-B. These agreements do not include the “exclusivity”
 25 provisions alleged by the Plaintiff. The Court should take judicial notice of these agreements
 because there is no reasonable disagreement about their contents. Cal. Evid. Code § 452(h)
 26 (permitting judicial notice of indisputable facts); *see, e.g., Scott v. JPMorgan Chase Bank, N.A.*,
 214 Cal. App. 4th 743, 753-54 (2013) (in sustaining demurrer, trial court took proper judicial
 27 notice of purchase and assumption agreement posted on the FDIC’s official Web site).

28 ³ Plaintiff filed a nearly identical action in Small Claims court, and it was dismissed.

1 **II. ALLEGATIONS REGARDING AD PLACEMENT**

2 Plaintiff alleges that Google stopped delivering third-party ads to his website because the
3 site contained photographs of a “nudist colony in the Santa Cruz mountains.” Compl. at 7-8.
4 Plaintiff further alleges that Google “charged CoastNews.com with being a pornography
5 website” and requested that Plaintiff “remove the article or ad code from the page [where the
6 photographs appeared].” *Id.* Plaintiff claims this evidences Google’s desire to “sanitize all
7 pages” and engage in a “holy war against certain words.” *Id.* Plaintiff claims that, because he
8 refused to comply with Google’s policies, Google discontinued delivery of ads to Plaintiff’s site.
9 *Id.* at 10. Plaintiff claims that this left his website “severely marred aesthetically.” *Id.*

11 **III. ALLEGATIONS REGARDING ADWORDS AND ADSENSE AGREEMENTS**

12 Plaintiff also alleges in passing that he has been harmed due to alleged exclusivity
13 provisions in Google’s agreements for AdWords and AdSense. Compl. at 6. Plaintiff alleges
14 that these agreements are exclusive because they purportedly specify that customers may do
15 business with “no other entity than Google.” *Id.*

17 **Argument**

18 **I. STANDARD ON DEMURRER**

19 Pursuant to California Code of Civil Procedure section 430.10, a party may demur to a
20 complaint if the complaint fails to plead facts sufficient to constitute a cause of action. *See Cal.*
21 *Code Civ. Proc. § 430.10(e).* While a demurrer admits all facts properly pled in a complaint, “it
22 does not admit contentions, deductions or conclusions of fact or law alleged therein.” *Daar v.*
23 *Yellow Cab Co.*, 67 Cal. 2d 695, 713 (1967). Conclusory allegations that are unsupported by
24 factual allegations are entitled to no weight. *See Ramirez v. Wong*, 188 Cal. App. 4th 1480, 1488
25 (2010).
26

27

28

1 **II. GOOGLE’S OPINIONS REGARDING SEARCH RESULT RANKING AND AD**
2 **PLACEMENT ARE FULLY PROTECTED UNDER THE FIRST AMENDMENT**

3 The thrust of Plaintiff’s complaint is that his website is entitled to better treatment in
4 search results and is entitled to have Google’s ads displayed on his website regardless of
5 Google’s views. These allegations fail as a matter of law. As the California Supreme Court
6 found in *Blatty*, a book publisher cannot sue the New York Times, which develops a popular best
7 seller list, when the book publisher is upset about its placement (or lack thereof) on the list.
8 *Blatty v. N.Y. Times Co.*, 42 Cal. 3d 1033, 1048 (1986) (dismissing unfair competition, false
9 advertising, and tortious interference claims based on the U.S. and California Constitutions free
10 speech guarantees). As the court held in *Blatty*, “statements of opinion, ‘[however] pernicious,’
11 are immunized by the First Amendment in order to insure that their ‘correction depends not on
12 the conscience of judges and juries but on the competition of other ideas.’” *Id.* at 1044 (citation
13 omitted); *see also, e.g., Stewart v. Rolling Stone LLC*, 181 Cal. App. 4th 664, 674 (2010)
14 (dismissing unfair competition claims on the basis that Rolling Stone was free to arrange third-
15 party advertisements as it saw fit); *Bernardo v. Planned Parenthood Fed’n of Am.*, 115 Cal. App.
16 4th 322, 354 (2004) (upholding dismissal of claims against Planned Parenthood for opinions
17 expressed online).

18 Here, Plaintiff contends that Yahoo! and Bing, competing search engines, had the correct
19 opinion regarding the relevance of Plaintiff’s website when listing it in search results but
20 Google’s opinion was wrong. Compl. at 2-3. The Plaintiff’s allegations highlight precisely the
21 competition among opinions that the First Amendment aims to protect. Plaintiff’s complaint
22 with Google’s opinion regarding the placement of ads on a website containing objectionable
23 content does the same. Compl. at 7. Regardless of the cause of action Plaintiff attempts to
24 invoke, Google’s protected opinions are shielded from liability. *See Blatty*, 42 Cal. 3d at 1044-
25 45 (“Not only does logic compel the conclusion that First Amendment limitations are applicable
26
27
28

1 to all claims, of whatever label, whose gravamen is the alleged injurious falsehood of a
2 statement, but so too does a very pragmatic concern [regarding creative pleading].”).

3 Several courts have applied this principle specifically to the ranking of search results and
4 ad placement of online search engines because both reflect editorial judgments. *See, e.g., Zhang*
5 *v. Baidu.com, Inc.*, No. 11-3388, 2014 WL 1282730, at *4 (S.D.N.Y. Mar. 28, 2014) (search
6 engines’ editorial decisions as to the ranking of search results are fully protected First
7 Amendment expression); *Langdon v. Google, Inc.*, 474 F. Supp. 2d 622, 629-30 (D. Del. 2007)
8 (plaintiff’s demand that Google’s search results and ad placement be more favorable to it
9 contravenes Google’s First Amendment Rights); *Search King, Inc. v. Google Tech., Inc.*, No.
10 CIV-02-1457-M, 2003 WL 21464568, at *4 (W.D. Okla. May 27, 2003) (Google’s opinions
11 about the ranking of search results are constitutionally protected speech). Accordingly, none of
12 Plaintiff’s potential causes of action regarding this conduct can survive.
13
14

16 **III. GOOGLE’S REMOVAL OF AD CONTENT FROM THE PLAINTIFF’S SITE IS** 17 **ALSO FULLY PROTECTED BY THE CDA**

18 Plaintiff alleges that Google cannot decide where to place advertisements on a website
19 based on its own good faith views about whether content on the site may be objectionable to
20 Google and its users. This is not the law. Section 230(c)(2) of the CDA immunizes Internet
21 Service Providers like Google from liability based on their decisions to restrict uses of their its
22 services that *they or their users* consider “objectionable.” Section 230(c)(2) of the CDA
23 (“Section 230”) provides:

24 No provider or user of an interactive computer service⁴ shall be
25 held liable on account of - (A) any action voluntarily taken in

26
27 ⁴ There can be no dispute that Google is a provider of an “interactive computer service”
28 under the CDA. *See Novak v. Overture Servs., Inc.*, 309 F. Supp. 2d 446, 452-53 (E.D.N.Y. 2004) (Google is an “interactive computer service” provider for purposes of the CDA); *Ascentive, LLC v. Opinion Corp.*, 842 F. Supp. 2d 450, 473 (E.D.N.Y. 2011); *Parker v. Google*,
(continued...)

1 good faith to restrict access to or availability of material that the
2 [service] provider or user considers to be obscene, lewd,
3 lascivious, filthy, excessively violent, harassing, or otherwise
protected.

4 47 U.S.C. § 230(c)(2) (emphasis added). Section 230 specifically preempts state law. 47 U.S.C.
5 § 230(e)(3). Many courts have dismissed claims under Section 230 that seek to hold a service
6 provider liable for its exercise of a publisher's traditional editorial functions. *See, e.g.,*
7 *e360Insight, LLC v. Comcast Corp.*, 546 F. Supp. 2d 605, 607-08 (N.D. Ill. 2008) (applying
8 230(c)(2) to bar claims against Comcast for refusing to deliver what it considered to be "spam");
9 *Langdon*, 474 F. Supp. 2d at 631 (applying 230(c)(2) to bar claims against Google for refusing to
10 run advertisements that Google deemed objectionable); *Holomaxx Techs. Corp. v. Microsoft*
11 *Corp.*, No. 10-CV-04924 JF (HRL), 2011 WL 3740813, at *2 (N.D. Cal. Aug. 23, 2011) (also
12 applying 230(c)(2) to bar claims against Microsoft for refusing to deliver "spam").⁵

14 Plaintiff's allegations confirm that Google found the photo of a nudist colony on
15 Plaintiff's website objectionable, and asked that it be removed, so that Google could continue
16 serving ads on Plaintiff's website pursuant to its policies. Compl. at 7 ("Google cited an article
17 on a popular nudist colony in the Santa Cruz mountains giving us three days to remove the
18 article"). Plaintiff disagrees with Google's position, but the law is clear that *Google's view* as to
19 what is objectionable governs. *Comcast*, 546 F. Supp. 2d at 607-08 (Section 230(c)(2) "imposes
20

21 _____
22 (...continued from previous page)

23 *Inc.*, 422 F. Supp. 2d 492, 500-01 (E.D. Pa. 2006) ("[T]here is no doubt that Google qualifies as
24 an 'interactive computer service' and . . . [t]hus, it is eligible for immunity under § 230."), *aff'd*,
25 242 F. App'x 833 (3d Cir. 2007); *Mmubango v. Google, Inc.*, No. 12-1300, 2013 U.S. Dist.
26 LEXIS 24989, at *8 (E.D. Pa. Feb. 22, 2013); *Seldon v. Magedson*, No. 11 Civ. 6218
(PAC)(MHD), 2012 U.S. Dist. LEXIS 141616, at *56 (S.D.N.Y. July 9, 2012); *Green v.*
America Online (AOL), 318 F.3d 465, 470-72 (3d Cir. 2003); *Doe v. MySpace, Inc.*, 528 F.3d
413, 419 (5th Cir. 2008).

27 ⁵ While California courts have routinely applied Section 230(c)(1), which addresses Google's
28 immunity from suit based on what others publish, we are unaware of any published California
cases applying 230(c)(2). This is an appropriate case that squarely falls within this subsection as
confirmed by many courts.

1 a subjective element into the determination” regarding the propriety of particular content).
2 Under the plain terms of the statute, all that matters is that the service provider or its users
3 “consider” the material “objectionable.” 47 U.S.C. § 230(c)(2). This is precisely what the
4 Plaintiff alleges here.

5 Section 230(c)(2) thus precludes any state law claim premised on Google’s editorial
6 discretion as to whether and how to distribute ads to sites containing content it deems
7 objectionable.

8
9 **IV. PLAINTIFF FAILS TO PLEAD THE NECESSARY ELEMENTS OF ANY**
10 **EXCLUSIVE DEALING CLAIM**

11 Any claim premised on Plaintiff’s allegation of exclusive dealing also fails to state a
12 claim under California law. First, Plaintiff’s claim is based on a fiction: there is no term in
13 Google’s AdSense or AdWords agreements “stipulat[ing] that buyers and sellers will do business
14 with no other entity than Google.” These standard agreements are publicly accessible and
15 available online. Google respectfully requests that this Court take judicial notice of these
16 agreements because there can be no reasonable disagreement as to their contents. Cal. Evid.
17 Code § 452(h) (permitting judicial notice of indisputable facts). Thus, because there is no basis
18 for this allegation in the first place, any claim based on it should be dismissed. *See, e.g., Scott v.*
19 *JPMorgan Chase Bank, N.A.*, 214 Cal. App. 4th 743, 753–754 (2013) (in sustaining demurrer,
20 trial court took proper judicial notice of purchase and assumption agreement posted on the
21 FDIC’s official Web site).

22 Second, Plaintiff does not plead injury in fact from this conduct, as required under
23 California law. *Kolling v. Dow Jones. & Co.*, 137 Cal. App. 3d 709, 723-24 (1982); *Saxer v.*
24 *Philip Morris, Inc.*, 54 Cal. App. 3d 7, 22-23 (1975). Specifically, Plaintiff cannot allege (1) that
25 he entered into an exclusive contract with Google regarding AdWords or AdSense, or (2) that
26
27
28

1 such an agreement prevented him from soliciting such services from any potential or actual
2 competitor.

3 Finally, California courts have made clear that an allegation of exclusive dealing requires
4 that a “substantial share” of commerce has been foreclosed by the practice. *See Fisherman’s*
5 *Wharf Bay Cruise Corp. v. Superior Ct.*, 114 Cal. App. 4th 309, 336-37 (2004); *Kolling v. Dow*
6 *Jones & Co.*, 137 Cal. App. 3d 709 (1982) (must show exclusive dealing arrangements to be
7 unreasonable). With hundreds of millions if not billions of sites on the internet,⁶ Plaintiff does
8 not state a claim for exclusive dealing because he does not (and cannot) plead that any
9 substantial share of any market has been foreclosed.
10

11 Dated: August 13, 2014

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

14 By /s/ David H. Reichenberg
David H. Reichenberg

Attorneys for Defendant
Google Inc.

26 _____
27 ⁶ This is judicially noticeable because it is a fact of such common knowledge that cannot
28 reasonably be the subject of dispute. Cal. Evid. Code § 452(g); *see, e.g., Fry v. Saenz*, 98 Cal.
App. 4th 256, 273 (2002) (judicial notice “that the terrible events of September 11, 2001, have
dramatically changed the state’s fiscal outlook”).

EXHIBIT A

Google AdSense Online Terms of Service

1. Welcome to AdSense!

Thanks for your interest in our search and advertising services (the “**Services**”)!

By using our Services, you agree to these terms (the “**AdSense Terms**”), the [AdSense Program Policies](#) and the [Google Branding Guidelines](#) (collectively, the “**Agreement**”). If ever in conflict, to the extent of such conflict, the AdSense Terms will take precedence over any other terms of the Agreement. Please read the Agreement carefully.

As used in the Agreement, “you” or “publisher” means the individual or entity using the Services (and/or any individual, entity or successor entity, agency or network acting on your behalf), “we,” “us” or “Google” means Google Inc., and the “parties” means you and Google.

2. Access to the Services; AdSense Accounts

Your use of the Services is subject to your creation and our approval of an AdSense account (an “**Account**”).

We have the right to refuse or limit your access to the Services. By submitting an application to use the Services, if you are an individual, you represent that you are at least 18 years of age. You may only have one Account.

By enrolling in AdSense, you permit Google to serve, as applicable, (i) advertisements and other content (“**Ads**”), (ii) Google search boxes and search results, and (iii) related search queries and other links to your websites, mobile applications, media players, mobile content, and/or other properties approved by Google (each individually a “**Property**”). In addition, you grant Google the right to access, index and cache the Properties, or any portion thereof, including by automated means. Google may refuse to provide the Services to any Property.

Any Property that is a software application and accesses our Services (a) may require preapproval by Google in writing, and (b) must comply with Google’s [Software Principles](#).

3. Using our Services

You may use our Services only as permitted by this Agreement and any applicable laws. Don’t misuse our Services. For example, don’t interfere with our Services or try to access them using a method other than the interface and the instructions that we provide.

You may discontinue your use of any Service at any time by removing the relevant code from your Properties.

4. Changes to our Services; Changes to the Agreement

We are constantly changing and improving our Services. We may add or remove functionalities or features of the Services at any time, and we may suspend or stop a Service altogether.

We may modify the Agreement at any time. We’ll post any modifications to the AdSense Terms on this page and any modifications to the AdSense Program Policies or the Google Branding Guidelines on their respective pages. Changes will not apply retroactively and generally will become effective 14 days after they are posted. However, changes addressing new functions for a Service or changes made for legal reasons will be effective immediately. If you don’t agree to any modified terms in the Agreement, you’ll have to stop using the affected Services.

5. Payments

Subject to this Section 5 and Section 10 of these AdSense Terms, you will receive a payment related to the number of valid clicks on Ads displayed on your Properties, the number of valid impressions of Ads displayed on your Properties, or other valid events performed in connection with the display of Ads on

your Properties, in each case as determined by Google.

Except in the event of termination, we will pay you by the end of the calendar month following any calendar month in which the earned balance in your Account equals or exceeds the applicable payment threshold. If you implement search Services, our payments may be offset by any applicable fees for such Services.

Unless expressly authorized in writing by Google, you may not enter into any type of arrangement with a third party where that third party receives payments made to you under the Agreement or other financial benefit in relation to the Services.

Payments will be calculated solely based on our accounting. Payments to you may be withheld to reflect or adjusted to exclude any amounts refunded or credited to advertisers and any amounts arising from invalid activity, as determined by Google in its sole discretion. Invalid activity is determined by Google in all cases and includes, but is not limited to, (i) spam, invalid queries, invalid impressions or invalid clicks on Ads generated by any person, bot, automated program or similar device, including through any clicks or impressions originating from your IP addresses or computers under your control; (ii) clicks solicited or impressions generated by payment of money, false representation, or requests for end users to click on Ads or take other actions; (iii) Ads served to end users whose browsers have JavaScript disabled; and (iv) clicks or impressions co-mingled with a significant amount of the activity described in (i, ii, and iii) above.

In addition to our other rights and remedies, we may (a) withhold and offset any payments owed to you under the Agreement against any fees you owe us under the Agreement or any other agreement, or (b) require you to refund us within 30 days of any invoice, any amounts we may have overpaid to you in prior periods. If you dispute any payment made or withheld relating to the Services, you must notify Google in writing within 30 days of any such payment. If you do not, any claim relating to the disputed payment is waived. If an advertiser whose Ads are displayed on any Property defaults on payment to Google, we may withhold payment or charge back your account.

To ensure proper payment, you are responsible for providing and maintaining accurate contact and payment information in your Account. You are responsible for any charges assessed by your bank or payment provider.

6. Taxes

As between you and Google, Google is responsible for all taxes (if any) associated with the transactions between Google and advertisers in connection with Ads displayed on the Properties. You are responsible for all taxes (if any) associated with the Services, other than taxes based on Google's net income. All payments to you from Google in relation to the Services will be treated as inclusive of tax (if applicable) and will not be adjusted.

7. Intellectual Property; Brand Features

Other than as set out expressly in the Agreement, neither party will acquire any right, title or interest in any intellectual property rights belonging to the other party or to the other party's licensors.

If Google provides you with software in connection with the Services, we grant you a non-exclusive, non-sublicensable license for use of such software. This license is for the sole purpose of enabling you to use and enjoy the benefit of the Services as provided by Google, in the manner permitted by the Agreement.

Other than distributing content via the AdMob SDK, you may not copy, modify, distribute, sell, or lease any part of our Services or included software, nor may you reverse engineer or attempt to extract the source code of that software, unless laws prohibit those restrictions or you have our written permission. You will not remove, obscure, or alter Google's copyright notice, Brand Features, or other proprietary rights notices affixed to or contained within any Google services, software, or documentation.

We grant you a non-exclusive, non-sublicensable license to use Google's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features ("**Brand Features**") solely in connection with your use of the Services and in accordance with the Agreement and the Google Branding Guidelines.

We may revoke this license at any time. Any goodwill arising from your use of Google's Brand Features will belong to Google.

We may include your name and Brand Features in our presentations, marketing materials, customer lists and financial reports.

8. Privacy

Our [privacy policy](#) explains how we treat your personal data and protect your privacy when you use our Services. By using our Services, you agree that Google can use such data in accordance with our privacy policy.

You will ensure that at all times you use the Services, the Properties have a clearly labeled and easily accessible privacy policy that provides end users with clear and comprehensive information about cookies, device-specific information, location information and other information stored on, accessed on, or collected from end users' devices in connection with the Services, including, as applicable, information about end users' options for cookie management. You will use commercially reasonable efforts to ensure that an end user gives consent to the storing and accessing of cookies, device-specific information, location information or other information on the end user's device in connection with the Services where such consent is required by law.

9. Confidentiality

You agree not to disclose Google Confidential Information without our prior written consent. "**Google Confidential Information**" includes: (a) all Google software, technology and documentation relating to the Services; (b) click-through rates or other statistics relating to Property performance as pertaining to the Services; (c) the existence of, and information about, beta features in a Service; and (d) any other information made available by Google that is marked confidential or would normally be considered confidential under the circumstances in which it is presented. Google Confidential Information does not include information that you already knew prior to your use of the Services, that becomes public through no fault of yours, that was independently developed by you, or that was lawfully given to you by a third party. Notwithstanding this Section 9, you may accurately disclose the amount of Google's gross payments resulting from your use of the Services.

10. Termination

You may terminate the Agreement at any time by completing the [account cancellation process](#). The Agreement will be considered terminated within 10 business days of Google's receipt of your notice. If you terminate the Agreement and your earned balance equals or exceeds the applicable [threshold](#), we will pay you your earned balance within approximately 90 days after the end of the calendar month in which the Agreement is terminated. Any earned balance below the applicable [threshold](#) will remain unpaid. Google may at any time terminate the Agreement, or suspend or terminate the participation of any Property in the Services for any reason. If we terminate the Agreement due to your breach or due to invalid activity, we may withhold unpaid amounts or charge back your account. If you breach the Agreement or Google suspends or terminates your Account, you (i) will not be allowed to create a new Account, and (ii) may not be permitted to monetize content on other Google products.

11. Indemnity

You agree to indemnify and defend Google, its affiliates, agents, and advertisers from and against any and all third-party claims and liabilities arising out of or related to the Properties, including any content served on the Properties that is not provided by Google, your use of the Services, or your breach of any term of the Agreement. Google's advertisers are third-party beneficiaries of this indemnity.

12. Representations; Warranties; Disclaimers

You represent and warrant that (i) you have full power and authority to enter into the Agreement; (ii) you

are the owner of, or are legally authorized to act on behalf of the owner of, each Property; (iii) you are the technical and editorial decision maker in relation to each Property on which the Services are implemented and that you have control over the way in which the Services are implemented on each Property; (iv) Google has never previously terminated or otherwise disabled an AdSense account created by you due to your breach of the Agreement or due to invalid activity; (v) entering into or performing under the Agreement will not violate any agreement you have with a third party or any third-party rights; and (vi) all of the information provided by you to Google is correct and current.

OTHER THAN AS EXPRESSLY SET OUT IN THE AGREEMENT, WE DO NOT MAKE ANY PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTION OF THE SERVICES, OR THEIR PROFITABILITY, RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE EACH SERVICE "AS IS".

TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED. WE EXPRESSLY DISCLAIM THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

13. Limitation of Liability

TO THE EXTENT PERMITTED BY LAW, EXCEPT FOR ANY INDEMNIFICATION OBLIGATIONS HEREUNDER OR YOUR BREACH OF ANY INTELLECTUAL PROPERTY RIGHTS, CONFIDENTIALITY OBLIGATIONS AND/OR PROPRIETARY INTERESTS RELATING TO THE AGREEMENT, (i) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THE AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, AND (ii) EACH PARTY'S AGGREGATE LIABILITY UNDER THE AGREEMENT IS LIMITED TO THE NET AMOUNT RECEIVED AND RETAINED BY THAT PARTICULAR PARTY IN CONNECTION WITH THIS AGREEMENT DURING THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. Each party acknowledges that the other party has entered into the Agreement relying on the limitations of liability stated herein and that those limitations are an essential basis of the bargain between the parties.

14. Miscellaneous

Entire Agreement; Amendments. The Agreement is our entire agreement relating to your use of the Services and supersedes any prior or contemporaneous agreements on that subject. This Agreement may be amended (i) in a writing signed by both parties that expressly states that it is amending the Agreement, or (ii) as set forth in Section 4, if you keep using the Services after Google modifies the Agreement.

Assignment. You may not assign or transfer any of your rights under the Agreement.

Independent Contractors. The parties are independent contractors and the Agreement does not create an agency, partnership, or joint venture.

No Third-Party Beneficiaries. Other than as set forth in Section 11, this Agreement does not create any third-party beneficiary rights.

No Waiver. Other than as set forth in Section 5, the failure of either party to enforce any provision of the Agreement will not constitute a waiver.

Severability. If it turns out that a particular term of the Agreement is not enforceable, the balance of the Agreement will remain in full force and effect.

Survival. Sections 7, 9, 10, 11, 13, and 14 of these AdSense Terms will survive termination.

Governing Law; Venue. All claims arising out of or relating to this Agreement or the Services will be governed by California law, excluding California's conflict of laws rules, and will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts.

Force Majeure. Neither party will be liable for inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action, and Internet disturbance) that was beyond the party's reasonable control.

Communications. In connection with your use of the Services, we may contact you regarding service announcements, administrative messages, and other information. You may opt out of some of those communications in your Account settings. For information about how to contact Google, please visit our [contact page](#).

* * *

15. Service-Specific Terms

If you choose to implement any of the following Services on a Property, you also agree to the additional terms identified below:

AdMob: the [AdMob Publisher Guidelines and Policies](#).

Custom Search Engine: the [Custom Search Engine Terms of Service](#).

EXHIBIT B

Google Inc. Advertising Program Terms

These Google Inc. Advertising Program Terms (“**Terms**”) are entered into by Google Inc. (“**Google**”) and the entity executing these Terms or that accepts these Terms electronically (“**Customer**”). These Terms govern Customer’s participation in Google’s advertising programs and services (i) that are accessible through the account(s) given to Customer in connection with these Terms or (ii) that reference or are referenced by these Terms (collectively, “**Programs**”). In consideration of the foregoing, the parties agree as follows:

1 Programs. Customer authorizes Google and its affiliates to place Customer’s advertising materials and related technology (collectively, “**Ads**” or “**Creative**”) on any content or property (each a “**Property**”) provided by Google or its affiliates on behalf of itself or, as applicable, a third party (“**Partner**”). Customer is solely responsible for all: (i) Creative, (ii) Ad trafficking or targeting decisions (e.g., keywords) (“**Targets**”), (iii) Properties to which Creative directs viewers (e.g., landing pages) along with the related URLs and redirects (“**Destinations**”) and (iv) services and products advertised on Destinations (collectively, “**Services**”). The Program is an advertising platform on which Customer authorizes Google to use automated tools to format Ads. Google and its affiliates may make available to Customer certain optional Program features to assist Customer with the selection and generation of Targets and Creative. Customer is not required to authorize use of these optional Targeting and Creative features and, as applicable, may opt-in to or opt-out of usage of these features, but if Customer uses these features then Customer will be solely responsible for the Targets and Creative. Google or Partners may reject or remove a specific Ad or Target at any time for any or no reason. Google and its affiliates may modify or cancel Programs at any time. Customer acknowledges that Google or its affiliates may participate in Program auctions in support of its own services and products. Some Program features are identified as “**Beta**,” “**Ad Experiment**,” or as otherwise unsupported or confidential (collectively, “**Beta Features**”). Customer may not disclose any information from Beta Features or the terms or existence of any non-public Beta Features.

2 Policies. Customer is solely responsible for its use of the Programs (e.g., access to and use of Program accounts and safeguarding usernames and passwords) (“**Use**”). Program Use is subject to applicable Google policies available at www.google.com/ads/policies and all applicable Partner policies made available by Google to Customer (in each case, as modified from time to time, “**Policies**”). Some frequently asked Policy questions are answered by the following Policies: the Google Privacy Policy available at www.google.com/privacy.html; the Advertising Cookies Policy available at www.google.com/ads/cookies; and the Trademark Guidelines available at www.google.com/permissions/guidelines.html. In connection with the Program, Google will comply with the Google Privacy Policy. Customer authorizes Google to modify Ads as described in Policies. Customer will not, and will not authorize any third party to, (i) generate automated, fraudulent or otherwise invalid impressions, inquiries, clicks or conversions, (ii) conceal conversions for Programs where they are required to be disclosed or (iii) use any automated means or form of scraping or data extraction to access, query or otherwise collect Google advertising related information from any Property except as expressly permitted by Google. Customer will direct communications regarding Ads on Partner Properties under these Terms only to Google.

3 Ad Serving. (a) Customer will not provide Ads containing malware, spyware or any other malicious code or knowingly breach or circumvent any Program security measure. (b) Customer may utilize an Ad server solely for serving or tracking Ads under Programs that permit third party Ad serving and only if the Ad server has been authorized by Google to participate in the Program. Google will implement Customer’s Ad server tags so that they are functional. (c) For online display Ad impressions billed on a CPM basis (“**Display Ads**”), if Google’s impression count (“**IC**”) for a Program is higher than Customer’s third party Ad server (“**3PAS**”) IC by more than 10% over the invoice period, Customer will facilitate reconciliation efforts between Google and 3PAS. If this discrepancy is not resolved, Customer’s sole remedy is to make a claim within 60 days after the invoice date (“**Claim Period**”) and (i) Google will issue to Customer advertising credits equal to (90% of Google IC – 3PAS IC) * Google-reported campaign average CPM over the invoice period which must be used by Customer within 60 days of issuance of the credits (“**Use By Date**”) and (ii) Google may suspend Customer’s permission to utilize that 3PAS provider and the effectiveness of the discrepancy resolution provisions of this sentence for that 3PAS provider. Metrics from 3PAS whose Ad server tags are provided to Google will be used in the foregoing discrepancy resolution calculations. Google may require that discrepancy records be provided directly by 3PAS to Google. Customer will not be credited for discrepancies caused by 3PAS’ inability to serve Ads.

4 Ad Cancellation. Unless a Policy, the Program user interface or an agreement referencing these Terms (an “IO”) provides otherwise, either party may cancel any Ad at any time before the earlier of Ad auction or placement, but if Customer cancels an Ad after a commitment date provided by Google (e.g., a reservation-based campaign), then Customer is responsible for any cancellation fees communicated by Google to Customer (if any) and the Ad may still be published. Cancelled Ads will generally cease serving within 8 business hours or as described in a Policy or IO, and Customer remains obligated to pay all charges resulting from served Ads (e.g., fees based on conversion). Customer must effect cancellation of Ads (i) online through Customer’s account if the functionality is available, (ii) if this functionality is not available, with notice to Google via email to Customer’s account representative or (iii) if Customer does not have an account representative, with notice to Google via email to adwords-support@google.com (collectively, the “**Ad Cancellation Process**”). Customer will not be relieved of any payment obligations for Creative not submitted or submitted by Customer after the due date provided by Google. Google will not be bound by a Customer provided IO.

5 Warranty and Rights. Customer warrants that (a) it holds, and hereby grants Google, its affiliates and Partners, the rights in Creative, Destinations and Targets for Google, its affiliates and Partners to operate the Programs and (b) all information and authorizations provided by Customer are complete, correct and current. Customer authorizes Google and its affiliates to automate retrieval and analysis of Destinations for the purposes of the Programs. Customer warrants that it is authorized to act on behalf of, and has bound to these Terms, third parties, if any, for which Customer advertises in connection with these Terms (“**Advertiser**”). If for any reason Customer has not bound an Advertiser to these Terms, Customer will be liable for performing any obligation that the Advertiser would have if it had been bound to these Terms. Customer will provide Advertiser with reporting data as frequently as existing reporting from Customer to Advertiser, but no less than on a monthly basis, that discloses absolute dollars spent on Google and performance (at a minimum cost, clicks and impressions of users on the account of that Advertiser) in a reasonably prominent location. Google may, upon request of an Advertiser, share Advertiser-specific information with Advertiser. If Customer is using a Program on its own behalf to advertise and not on behalf of an Advertiser, for that use Customer will be deemed to be both Customer and Advertiser.

6 Make-Goods. For reservation-based Display Ads, Google will deliver any agreed upon aggregate number of Display Ads by the end of the campaign, provided that if Google fails to do so, then Customer’s sole remedy is to make a claim during the Claim Period. If Google confirms the accuracy of the claim, then Google will not charge Customer for the undelivered Display Ads or, if Customer has already paid, at Google’s reasonable discretion, Google will provide for (i) advertising credits, which must be used by the Use By Date, (ii) later placement of the Display Ads in a position Google deems comparable or (iii) an extension of the term of the campaign. Google cannot assure that any auction-based Ads will be delivered and therefore make-goods do not apply to auction-based Ads.

7 Payment. Customer will pay all charges incurred in connection with the Program, in immediately available funds or as otherwise approved by Google, within a commercially reasonable time period specified by Google (e.g., in the Program user interface or IO). Late payments bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less). Charges are exclusive of taxes. Customer will pay (i) all taxes and other government charges and (ii) reasonable expenses and attorneys’ fees Google incurs in collecting late payments. Charges are solely based on Google’s measurements for the Programs and the applicable billing metrics (e.g., clicks or impressions). Any portion of a charge not disputed in good faith must be paid in full. No party may offset any payment due under these Terms against any other payment to be made under these Terms. Google may, in its sole discretion, extend, revise or revoke credit at any time. Google is not obligated to deliver any Ads in excess of any credit limit. If Google does not deliver Ads to the selected Targets, then Customer’s sole remedy is to make a claim for advertising credits within the Claim Period, after which Google will issue the credits following claim validation which must be used by the Use By Date. Customer understands that third parties may generate impressions or clicks on Customer’s Ads for prohibited or improper purposes and that its sole remedy is to make a claim for advertising credits within the Claim Period, after which Google will issue the credits following claim validation which must be used by the Use By Date. TO THE FULLEST EXTENT PERMITTED BY LAW, (A) ADVERTISER AND CUSTOMER WAIVE ALL CLAIMS RELATING TO ANY PROGRAM CHARGES UNLESS A CLAIM IS MADE WITHIN THE CLAIM PERIOD AND (B) THE ISSUANCE OF ADVERTISING CREDITS (IF ANY) IS AT GOOGLE’S REASONABLE DISCRETION AND IF ISSUED, MUST BE USED BY THE USE BY DATE.

8 Disclaimers. EACH PARTY ON BEHALF OF ITSELF AND ITS AFFILIATES DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION FOR NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR ANY PURPOSE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PROGRAMS AND GOOGLE AND PARTNER PROPERTIES ARE PROVIDED "AS IS" AND AT CUSTOMER'S AND ADVERTISER'S OPTION AND RISK AND NONE OF GOOGLE, ITS AFFILIATES OR GOOGLE'S PARTNERS MAKE ANY GUARANTEE IN CONNECTION WITH THE PROGRAMS OR PROGRAM RESULTS.

9 Limitation of Liability. EXCEPT FOR SECTION 10 AND CUSTOMER'S BREACHES OF SECTIONS 3(A), 12(D) OR THE LAST SENTENCE OF SECTION 1, TO THE FULLEST EXTENT PERMITTED BY LAW REGARDLESS OF THE THEORY OR TYPE OF CLAIM: (a) NO PARTY OR ITS AFFILIATES MAY BE HELD LIABLE UNDER THESE TERMS OR ARISING OUT OF OR RELATED TO PERFORMANCE OF THESE TERMS FOR ANY DAMAGES OTHER THAN DIRECT DAMAGES, EVEN IF THE PARTY IS AWARE OR SHOULD KNOW THAT SUCH DAMAGES ARE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY; AND (b) OTHER THAN CUSTOMER'S PAYMENT OBLIGATIONS UNDER THESE TERMS, NO PARTY OR ITS AFFILIATES MAY BE HELD LIABLE FOR DAMAGES UNDER THESE TERMS OR ARISING OUT OF OR RELATED TO PERFORMANCE OF THESE TERMS FOR ANY GIVEN EVENT OR SERIES OF CONNECTED EVENTS IN THE AGGREGATE OF MORE THAN THE AMOUNT PAYABLE TO GOOGLE BY CUSTOMER UNDER THE TERMS IN THE THIRTY DAYS BEFORE THE DATE OF THE ACTIVITY FIRST GIVING RISE TO THE CLAIM.

10 Indemnification. Customer will defend, indemnify and hold harmless Google, its Partners, agents, affiliates, and licensors from any third party claim or liability arising out of or related to Targets, Creative, Destinations, Services, Use and breach of these Terms by Customer. Partners are intended third party beneficiaries of this Section.

11 Term. Google may add to, delete from or modify these Terms at any time without liability. The modified Terms will be posted at www.google.com/ads/terms. Customer should look at these Terms regularly. The changes to the Terms will not apply retroactively and will become effective 7 days after posting. However, changes specific to new functionality or changes made for legal reasons will be effective immediately upon notice. Either party may terminate these Terms at any time with notice to the other party, but (i) campaigns not cancelled under Section 4 and new campaigns may be run and reserved and (ii) continued Program Use is, in each case subject to Google's then standard terms and conditions for the Program available at www.google.com/ads/terms. Google may suspend Customer's ability to participate in the Programs at any time. In all cases, the running of any Customer campaigns after termination is in Google's sole discretion.

12 Miscellaneous. (a) ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE PROGRAMS WILL BE GOVERNED BY CALIFORNIA LAW, EXCLUDING CALIFORNIA'S CONFLICT OF LAWS RULES, AND WILL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF SANTA CLARA COUNTY, CALIFORNIA, USA; THE PARTIES CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS. (b) Nothing in these Terms will limit a party's ability to seek equitable relief. (c) These Terms are the parties' entire agreement relating to its subject and supersede any prior or contemporaneous agreements on that subject. (d) No party may make any public statement regarding the relationship contemplated by these Terms (except when required by law). (e) All notices of termination or breach must be in writing and addressed to the other party's Legal Department (or if it is not known if the other party has a Legal Department then to the other party's primary contact). The email address for notices being sent to Google's Legal Department is legal-notices@google.com. All other notices must be in writing and addressed to the other party's primary contact. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable). These notice requirements do not apply to legal service of process, which is instead governed by applicable law. (f) Except for modifications to these Terms by Google under Section 11, all amendments must be agreed to by both parties and expressly state that it is amending these Terms. Neither party will be

treated as having waived any rights by not exercising (or delaying the exercise of) any rights under these Terms. If any provision of these Terms is found unenforceable, the balance of the Terms will remain in full force and effect. (g) Neither party may assign any part of these Terms without the written consent of the other party, except to an affiliate but only where (I) the assignee agrees in writing to be bound by these Terms, (II) the assigning party remains liable for obligations under these Terms if the assignee defaults on them, and (III) the assigning party has notified the other party of the assignment. Any other attempt to transfer or assign is void. (h) Except as expressly listed in Section 10, there are no third-party beneficiaries to these Terms. (i) These Terms do not create any agency, partnership or joint venture among the parties. (j) Sections 1 (last sentence only) and 7 to 12 will survive termination of these Terms. (k) Except for payment obligations, no party or its affiliates is liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.

February 21, 2013

1 SCOTT A. SHER, State Bar No. 190053
 2 DAVID H. REICHENBERG (*admitted pro hac vice*)
 3 WILSON SONSINI GOODRICH & ROSATI
 4 Professional Corporation
 5 650 Page Mill Road
 6 Palo Alto, CA 94304-1050
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 8 Facsimile: (650) 493-6811
 9 Email: ssher@wsgr.com

10 Attorneys for Defendant
 11 GOOGLE INC.

ELECTRONICALLY
FILED
 Superior Court of California,
 County of San Francisco
AUG 29 2014
 Clerk of the Court
 BY: JUDITH NUNEZ
 Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 13 COUNTY OF SAN FRANCISCO

14 S. LOUIS MARTIN,

15 Plaintiff,

16 v.

17 GOOGLE INC.,

18 Defendant.

) Case No. CGC-14-539972

)
) **DECLARATION OF JACOB**
) **HAUBER IN SUPPORT OF**
) **DEFENDANT GOOGLE INC.**
) **TO STRIKE PLAINTIFF'S**
) **COMPLAINT PURSUANT TO**
) **CIV. PROC. CODE § 425.16**

) Date: October 15, 2014

) Time: 9:30 AM

) Dept: 302

) Reservation No.: 081114-12

)
) Complaint Filed: June 17, 2014

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DECLARATION OF JACOB HAUBER

1
2 I, JACOB HAUBER, declare:

3 1. I am currently an employee of Defendant Google Inc. ("Google") and have been a
4 Google employee since 2004. I am a Legal Analyst that specializes in matters related to
5 Google's advertising products, including AdSense. I am capable of authenticating records from
6 the adsense-no-reply@google.com email account. I have personal knowledge of the facts
7 contained in this declaration and, if called as a witness, I am competent to testify to those facts.

8 2. Attached hereto as Exhibit A is a true and correct copy of an email sent from the
9 Google AdSense Team (adsense-noreply@google.com) to editor@coastnews.com dated May 2,
10 2013. The email states that a page within the coastnews.com domain was in violation of a
11 Google policy not to place advertisements on "on adult or mature content," which includes any
12 site containing "full nudity." The email requests that the administrator of the coastnews.com site
13 "either remove the content from [the] site or remove ads from the violating pages" within 72
14 hours or ad serving to the website would be disabled. The editor@coastnews.com email address
15 is the only email address contained in Google's files for the AdSense account associated with the
16 coastnews.com domain.

17 3. Attached hereto as Exhibit B is a true and correct copy of an email sent from the
18 Google AdSense Team (adsense-noreply@google.com) to editor@coastnews.com dated May 9,
19 2013. The email states that a second review of the coastnews.com site was conducted and that a
20 policy violation was found. The email states that ad service to the site was disabled.

21 I hereby declare that the above statements are true and correct. Signed under the penalty
22 of perjury under the laws of the State of California, on the date set forth below, in Mountain
23 View, California.

24 Dated: August 25, 2014

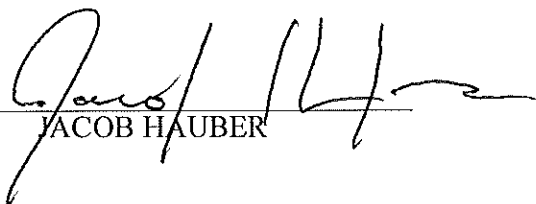
25 By 
JACOB HAUBER

Exhibit A



adsense-noreply adsense-noreply@google.com

to editor@coastnews.com |✉|

05/02/13

Hello,

This is a **warning message** to alert you that there is action required to bring your AdSense account into compliance with our AdSense program policies. We've provided additional details below, along with the actions to be taken on your part.

Issue ID #: 21606132

Affected website: coastnews.com

Example page where violation occurred: http://coastnews.com/santa_cruz/naked/naked.htm

Action required: Please make changes to your site within 72 hours.

Current account status: Active

Violation explanation

Google ads may not be placed on adult or mature content. This includes any site which contains:

- full nudity
- pornographic images, videos, or games
- pornographic cartoons or anime (hentai/ecchi)

For more information about keeping your content family-safe, please review our [program guidelines](#) and these tips [from the policy team](#).

How to resolve:

If you received a notification in regard to page content, please either remove the content from your site or remove ads from the violating pages. If you received a notification in regards to the way ads are implemented on your site, please make the necessary changes to your implementation. We will automatically review the site again after 72 hours. You do not need to contact us if you make changes. Please be aware that if changes are not made within the required time frame, ad serving will be disabled to the affected website listed above.

Additionally, please be aware that the URL above is just an example and that the same violations may exist on other pages of this website or other sites that you own. To reduce the likelihood of future warnings from us, we suggest that you review all your sites for compliance. For more information regarding our policy warning notifications, visit our Help Center: <https://support.google.com/adsense/bin/answer.py?hl=en&answer=1378153&ctx=topic>.

We thank you in advance for your cooperation.

Sincerely,

The Google AdSense Team



mailer-daemon mailer-daemon@google.com

05/02/13

to 3qgccuq8kbgufixsj-stwjuq3lttlqj.htrjinytwhfxysj1x.htr@cases-outbound-prod.bounces.google.com |*|

Delivery to the following recipient failed permanently:

editor@coastnews.com

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the server for the recipient domain coastnews.com by coastnews.com. [205.134.249.85].

The error that the other server returned was:

550 No Such User Her

Exhibit B



adsense-noreply adsense-noreply@google.com

to editor@coastnews.com |

05/09/13

Hello,

We previously notified you about a policy violation on your site, and we asked that you make changes within 3 working days. After reviewing your site, we've found that the previous violation was not corrected, or we've found another violation. Therefore, we've disabled ad serving to your site.

Your AdSense account remains active. However, we strongly suggest that you take the time to review our program policies (<https://www.google.com/adsense/policies>) to ensure that all of your remaining pages are in compliance.

Please note that we reserve the right to disable your account at any time.

Sincerely,

The Google AdSense Team



mailer-daemon mailer-daemon@google.com

to 3sxaluq8kbvqwzoajoa-jknalhuckkcha.ykiazepknykwopjaso.yki@cases-outbound-prod.bounces.google.com |

05/09/13

Delivery to the following recipient failed permanently:

editor@coastnews.com

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the server for the recipient domain coastnews.com by coastnews.com. [205.134.249.85].

The error that the other server returned was:

550 No Such User Her

1 SCOTT A. SHER, State Bar No. 190053
 2 DAVID H. REICHENBERG (*admitted pro hac vice*)
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7 Attorneys for Defendant
 8 GOOGLE INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF SAN FRANCISCO

10	S. LOUIS MARTIN,	)	Case No. CGC-14-539972
11)	
12	Plaintiff,	)	DECLARATION OF DAVID
13		)	H. REICHENBERG IN
14	v.	)	SUPPORT OF DEFENDANT
15		)	GOOGLE INC. TO STRIKE
16	GOOGLE INC.,	)	PLAINTIFF'S COMPLAINT
17		)	PURSUANT TO CIV. PROC.
18	Defendant.	)	CODE § 425.16
19)	
20		)	Date: October 15, 2014
)	Time: 9:30 AM
)	Dept: 302
)	Reservation No.: 081114-12
)	
)	Complaint Filed: June 17, 2014
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DECLARATION OF DAVID H. REICHENBERG

I, DAVID H. REICHENBERG, declare:

1. I am an associate at the law firm of Wilson Sonsini Goodrich & Rosati PC, which represents Defendant Google Inc. in this matter. I have personal knowledge of the facts contained in this declaration and, if called as a witness, I am competent to testify to those facts.

2. Attached hereto as Exhibit A is a true and correct copy of the *Statement of the Federal Trade Commission Regarding Google's Search Practices*, dated January 3, 2013, closing the Commission's investigation in *In the Matter of Google Inc.*, FTC File Number 111-0163. I retrieved this statement from the Federal Trade Commission's website on August 26, 2014. The statement was issued "to explain the Commission's unanimous decision to close the portion of its investigation relating to allegations that Google unfairly preferences its own content on the Google search results page and selectively demotes its competitors' content from those results." The Commission found that "Google's display of its own content could plausibly be viewed as an improvement in the overall quality of Google's search product." In addition, the Commission did not find "sufficient evidence that Google manipulates its search algorithms to unfairly disadvantage vertical websites that compete with Google-owned vertical properties."

3. Attached hereto as Exhibit B is a true and correct copy of an excerpt of Google's AdSense Terms and Conditions for users with billing addresses in the United States. I retrieved the attached excerpt from <https://www.google.com/adsense/localized-terms> on August 26, 2014. Section 1 of the AdSense Terms and Conditions states that users of the service agree to the terms of Google's AdSense Program Policies.

4. Attached hereto as Exhibit C is a true and correct copy of a page from Google's AdSense support website setting out the AdSense Program Policies regarding adult content. I retrieved this page from <https://support.google.com/adsense/answer/4410771> on August 26, 2014. The page states that "[p]ublishers are not permitted to place Google ads . . . on pages with adult or mature content" and that "adult or mature content" includes "pages with images, videos, or descriptions containing . . . nudity."

1 5. Attached hereto as Exhibit D is a true and correct copy of the content of the
2 website located at http://coastnews.com/santa_cruz/naked/naked.htm, which I accessed on
3 August 26, 2014. The website contains two images depicting nudity.

4 6. Attached hereto as Exhibit E is a true and correct copy of a historical report of the
5 content contained on the website located at http://coastnews.com/santa_cruz/naked/naked.htm
6 created by the Internet Archive, a website that gives access to a digital library of internet sites as
7 they appeared in the past. I accessed the Internet Archive and created this report on August 26,
8 2014. The report shows that on April 1, 2013, the website contained the same two images
9 depicting nudity as shown in Exhibit D.

10 I hereby declare that the above statements are true and correct. Signed under the penalty
11 of perjury under the laws of the State of California, on the date set forth below, in New York,
12 New York.

13 Dated: August 26, 2014

14 By 
15 DAVID H. REICHENBERG

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Exhibit A

**Statement of the Federal Trade Commission Regarding
Google's Search Practices
In the Matter of Google Inc.
FTC File Number 111-0163
January 3, 2013**

The Federal Trade Commission has today completed a wide-ranging investigation of alleged anticompetitive conduct by Google Inc. (“Google”). We issue this Statement to explain the Commission’s unanimous decision to close the portion of its investigation relating to allegations that Google unfairly preferences its own content on the Google search results page and selectively demotes its competitors’ content from those results. Some parties refer to this alleged practice as “search bias.”¹

The Commission conducted a comprehensive investigation of the search bias allegations against Google. Commission staff reviewed over nine million pages of documents from Google and other relevant parties. Staff interviewed numerous industry participants and conducted many investigational hearings of key Google executives. Staff economists conducted empirical analyses to investigate the impact of Google’s design changes on search engine traffic and user click-through behavior. The Commission also considered the many white papers, letters, and presentations made by industry participants, consumer organizations, and other stakeholders. In addition, we worked closely with, and had the active assistance of, five state attorneys general, who conducted parallel investigations into Google’s search practices.

I. Overview of the Search Bias Allegations

As is well known, when a user types a word or words into a Google search box, Google, guided by proprietary algorithms, searches its index of the Internet and assembles a ranked listing of relevant websites, known as “organic” search results. These organic results – together with advertising, links to Google products, and other information judged to be relevant to the user’s query – are returned to the user as the Google search results page. Google is a “horizontal,” or general purpose, search engine because it seeks to cover the Internet as completely as possible, delivering a comprehensive list of results to any query. General purpose search engines are distinct from “vertical” search engines, which focus on narrowly defined categories of content such as shopping or travel. Although vertical search engines are not wholesale substitutes for general purpose search engines, they present consumers with an alternative to Google for specific categories of searches.

Some vertical websites alleged that Google unfairly promoted its own vertical properties through changes in its search results page, such as the introduction of the “Universal Search” box, which prominently displayed Google vertical search results in response to certain types of queries, including shopping and local. Prominent display of Google’s proprietary content had the collateral effect of pushing the “ten blue links” of organic search results that Google had traditionally displayed farther down the search results page. Complainants also charged that

¹ Although Commissioner Rosch concurs in the decision to close the investigation, he does not join this Statement and has issued a separate statement expressing his views.

Google manipulated its search algorithms in order to demote vertical websites that competed against Google's own vertical properties.

II. The Commission's Investigation

The Commission may intervene and challenge business practices if it has reason to believe that such practices violate Section 5's prohibition on unfair methods of competition, and create a likelihood of significant injury to competition, including monopolization or attempted monopolization actionable under Section 2 of the Sherman Act. To determine whether Google violated Section 5 with respect to these search bias allegations, the Commission considered whether Google manipulated its search algorithms and search results page in order to impede a competitive threat posed by vertical search engines.

A key issue for the Commission was to determine whether Google changed its search results primarily to exclude actual or potential competitors and inhibit the competitive process, or on the other hand, to improve the quality of its search product and the overall user experience. The totality of the evidence indicates that, in the main, Google adopted the design changes that the Commission investigated to improve the quality of its search results, and that any negative impact on actual or potential competitors was incidental to that purpose. While some of Google's rivals may have lost sales due to an improvement in Google's product, these types of adverse effects on particular competitors from vigorous rivalry are a common byproduct of "competition on the merits" and the competitive process that the law encourages.

While Google's prominent display of its own vertical search results on its search results page had the effect in some cases of pushing other results "below the fold," the evidence suggests that Google's primary goal in introducing this content was to quickly answer, and better satisfy, its users' search queries by providing directly relevant information. Notably, the documents, testimony and quantitative evidence the Commission examined are largely consistent with the conclusion that Google likely benefited consumers by prominently displaying its vertical content on its search results page. For example, contemporaneous evidence demonstrates that Google would typically test, monitor, and carefully consider the effect of introducing its vertical content on the quality of its general search results, and would demote its own content to a less prominent location when a higher ranking adversely affected the user experience. Analyses of "click through" data showing how consumers reacted to the proprietary content displayed by Google also suggest that users benefited from these changes to Google's search results. We also note that other competing general search engines adopted many similar design changes, suggesting that these changes are a quality improvement with no necessary connection to the anticompetitive exclusion of rivals.

We nonetheless recognize that some of Google's algorithm and design changes resulted in the demotion of websites that could, collectively, be considered threats to Google's search business. For example, for shopping queries, Google demoted all but one or two comparison shopping properties from the first page of Google's search results to a later page. Demoting comparison shopping properties had the effect of elevating to page one certain merchant and other websites. These changes resulted in significant traffic loss to the demoted comparison shopping properties, arguably weakening those websites as rivals to Google's own shopping

vertical. On the other hand, these changes to Google’s search algorithm could reasonably be viewed as improving the overall quality of Google’s search results because the first search page now presented the user with a greater diversity of websites.

Product design is an important dimension of competition and condemning legitimate product improvements risks harming consumers. Reasonable minds may differ as to the best way to design a search results page and the best way to allocate space among organic links, paid advertisements, and other features. And reasonable search algorithms may differ as to how best to rank any given website. Challenging Google’s product design decisions in this case would require the Commission – or a court – to second-guess a firm’s product design decisions where plausible procompetitive justifications have been offered, and where those justifications are supported by ample evidence. Based on this evidence, we do not find Google’s business practices with respect to the claimed search bias to be, on balance, demonstrably anticompetitive, and do not at this time have reason to believe that these practices violate Section 5.²

III. Conclusion

In sum, we find that the evidence presented at this time does not support the allegation that Google’s display of its own vertical content at or near the top of its search results page was a product design change undertaken without a legitimate business justification. Rather, we conclude that Google’s display of its own content could plausibly be viewed as an improvement in the overall quality of Google’s search product. Similarly, we have not found sufficient evidence that Google manipulates its search algorithms to unfairly disadvantage vertical websites that compete with Google-owned vertical properties. Although at points in time various vertical

² The Commission also investigated allegations that Google had unfairly “scraped,” or misappropriated, the content of certain competing websites, passed this content off as its own, and then threatened to delist these rivals entirely from Google’s search results when they protested the misappropriation of their content. The Commission considered whether this conduct could have diminished the incentive of Google’s rivals to invest in bringing new and innovative content and services to the Internet in the future or reduced Google’s own incentive to innovate in the relevant markets, and if so whether this conduct was actionable as an unfair method of competition within the meaning of Section 5 of the FTC Act, 15 U.S.C. § 45. Chairman Leibowitz, Commissioner Brill and Commissioner Ramirez found the record evidence to support strong concerns about Google’s conduct in this regard, and Google has committed to refrain from this conduct in the future. In addition, the Commission investigated allegations that Google placed unreasonable restrictions on the ability of advertisers to simultaneously advertise on Google and competing search engines, or “multihome.” The Commission considered whether these restrictions raised the cost of dealing with Google’s rivals for advertisers, particularly small businesses who might multihome less due to the restrictions, whether these effects were material, and if so whether this conduct was actionable as an unfair method of competition under Section 5. Chairman Leibowitz and Commissioner Brill found the record evidence to support strong concerns about Google’s conduct in this regard, and Google has committed to refrain from this conduct in the future.

While Commissioner Ramirez is pleased that Google has decided to change certain of its practices, she objects to the form of the commitments made by Google.

Chairman Leibowitz and Commissioner Brill support the enforceable commitments made by Google. In this case, the commitments made by Google are appropriate and consistent with past practice at the Commission. See Statement of Commissioners Orson Swindle and Thomas B. Leary, *In re General Mills, Inc./Diageo plc/Pillsbury Co.* FTC File No. 001-0213, *available at* <http://www.ftc.gov/os/2001/10/gmstmtswinleary.htm>. Chairman Leibowitz and Commissioner Brill expect the Commission to enforce vigorously Google’s commitments with respect to scraping and API restrictions.

websites have experienced demotions, we find that this was a consequence of algorithm changes that also could plausibly be viewed as an improvement in the overall quality of Google's search results.

Although our careful review of the evidence in this matter supports our decision to close this investigation, we will remain vigilant and continue to monitor Google for conduct that may harm competition and consumers.

Exhibit B

AdSense Terms and Conditions

The Terms and Conditions vary according to the country where your billing address is located. Please choose your billing country below to view the appropriate Terms and Conditions.

My billing address is located in:

Terms and Conditions:

Google AdSense Online Terms of Service

1. Welcome to AdSense!

Thanks for your interest in our search and advertising services (the “**Services**”)!
By using our Services, you agree to these terms (the “**AdSense Terms**”), the [AdSense Program Policies](#) and the [Google Branding Guidelines](#) (collectively, the “**Agreement**”). If ever in conflict, to the extent of such conflict, the AdSense Terms will take precedence over any other terms of the Agreement. Please read the Agreement carefully.

As used in the Agreement, “you” or “publisher” means the individual or entity using the Services (and/or any individual, entity or successor entity, agency or network acting on your behalf), “we,” “us” or “Google” means Google Inc., and the “parties” means you and Google.

2. Access to the Services; AdSense Accounts

Your use of the Services is subject to your creation and our approval of an AdSense account (an “**Account**”). We have the right to refuse or limit your access to the Services. By submitting an application to use the Services, if you are an individual, you represent that you are at least 18 years of age. You may only have one Account.

By enrolling in AdSense, you permit Google to serve, as applicable, (i) advertisements and other content (“**Ads**”), (ii) Google search boxes and search results, and (iii) related search queries and other links to your websites, mobile applications, media players, mobile content, and/or other properties approved by Google (each individually a “**Property**”). In addition, you grant Google the right to access, index and cache the Properties, or any portion thereof, including by automated means. Google may refuse to provide the Services to any Property. Any Property that is a software application and accesses our Services (a) may require preapproval by Google in writing, and (b) must comply with Google’s [Software Principles](#).

3. Using our Services

You may use our Services only as permitted by this Agreement and any applicable laws. Don’t

Exhibit C



 > Help

Sign up today! [SIGN UP FOR ADSENSE](#)

[CONTENT POLICIES](#)

Adult content

[<](#) [NEXT: REQUIRED CONTENT](#) [>](#)

Publishers are not permitted to place Google ads or AdSense for search (AFS) search boxes on pages with adult or mature content. While we recognize that interpretations of adult or mature content may vary across countries and cultures, we hold all publishers accountable to the same content requirements so that we can ensure a safe and healthy global advertising ecosystem.

If you're unsure about whether or not something might be considered adult content, our general rule of thumb is this: if you wouldn't want a child to see the content or you would be embarrassed to view the page at work in front of colleagues, then you should not place ad code on it.

You can use Google Search with the site: search operator in your query to find content that may be in violation of the AdSense policies.

[AdSense Tips: Keeping your site family-safe](#)

Google AdSense Policies - Adult Content Overview

For more information about different types of adult violations, click on the links below:

Nudity and pornography

Sexually gratifying content

Fetishes and sexual aids

Mail order brides, escort services, adult or sexual dating sites

Adult links to external sites

Adult search results

Explicit text and extreme profanity

Comment spam

Sexual tips and health

Nudity and pornography

Google ads may not be placed on pages that contain nudity or pornography. Examples include, but are not limited to, pages with images, videos, or descriptions containing:

- pornographic images, videos, or games
- pornographic cartoons or anime (hentai/ecchi)
- nudity

[Back to top](#)

Sexually gratifying content

Google ads may not be placed on content that is sexually suggestive and/or intended to cause sexual arousal. Examples of content that may be considered sexually gratifying include, but are not limited to:

- close-ups of breasts, buttocks, or crotches
- sheer or see-through clothing or lingerie
- strategically covered nudity (includes situations in which genitals are blurred out by camera)
- images of men or women posing and/or undressing in a seductive manner

[Back to top](#)

Fetishes and sexual aids

Google ads may not be placed on pages that promote, sell, or discuss sexual fetishes, aids, devices, or enhancement tools.

A fetish⁵³ may be an obsession or sexual desire in which gratification is dependent upon specific objects (diapers, food items, etc.), materials (leather, latex, etc), parts of a body (feet, toes, ears, etc.), or situations. Examples of types of fetishes and fetishistic practices may include, but are not limited to:

- bestiality, necrophilia, incest, and voyeurism
- role-playing, bondage, dominance and submission
- sadomasochism, snuff

Google may consider something to be a sexual aid, device, or enhancement tool if it is used for sexual pleasure and/or to improve sexual experiences. This includes, but is not limited to:

- sexual toys such as vibrators, dildos, personal lubricants
- penis and breast enlargement tools and/or medications

Note: Certain medications used to treat conditions like erectile dysfunction fall under our prescription drug policy.

[Back to top](#)

Mail order brides, escort services, adult or sexual dating sites

Google ads may not be placed on any sites offering adult or sexual services, dating, companionship or erotic massages. Examples include, but are not limited to:

- personal ads and/or sites for affairs and/or sexual encounters
- escort services
- mail order brides
- erotic massage services

[Back to top](#)

Adult links to external sites

Google ads may not be placed on pages that provide links for or drive traffic to adult or mature sites.

[Back to top](#)

Adult search results

Google ads may not be displayed on adult search results. Examples include, but are not

limited⁵⁴ to, search results pages for:

- search results pages for adult or mature term
- images or videos with adult keywords or tags
- user generated comments that are mature in nature

[Back to top](#)

Explicit text and extreme profanity

Google ads may not be placed on pages with explicit text or extreme profanity. Examples include, but are not limited to, pages containing:

- erotic stories and/or descriptions of sexual acts
- sexual explicit jokes
- erotic or sexual forums, bulletin boards, and/or discussion groups
- sexual or profane terms in the URL
- crude language and/or excessive amounts profanity

[Back to top](#)

Comment spam

Google ads may not be placed on pages containing any form of comment spam (including adult language). Examples of comment spam include, but are not limited to: random sentences and/or portions of sentences into forum posts that have been copied and pasted from other sources random and/or nonsensical words and phrases that are unrelated to the topic

While we understand the challenges of monitoring user-generated content, we require publishers to monitor the pages upon which ad code appears. Please visit the user-generated content section of our Help Center for recommended solutions to police your content.

[Back to top](#)

Sexual tips and health

Google ads may not be placed on content that provides tips regarding sexual performance or discusses some treatments of sexual health issues. Examples include, but are not limited to:

- advice about improving sexual performance
- discussions and/or images of sexually transmitted diseases

- ⁵⁵sexual health advice related to pregnancy, childbirth, or family planning

[Back to top](#)

 [NEXT: REQUIRED CONTENT](#) 

Content policies

Prohibited content

Adult content

Required content

Copyright infringement

▸ **User Generated Content**

How helpful is this article:

Not at all helpful

Not very helpful

Somewhat helpful

Very helpful

Extremely helpful

 3

©2014 Google - [Privacy Policy](#) - [Terms of Service](#)

English 

[Send feedback about the Help Center](#)

Exhibit D

[Home](#) ⁵⁷
[Gallery](#)
[Search](#)
[Archive](#)
[Contact](#)

What do you wear to a nudist resort?

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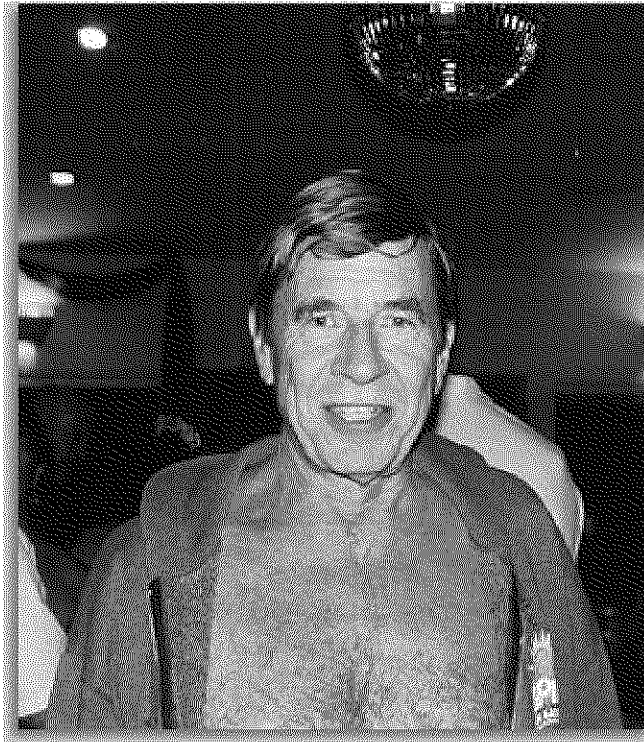
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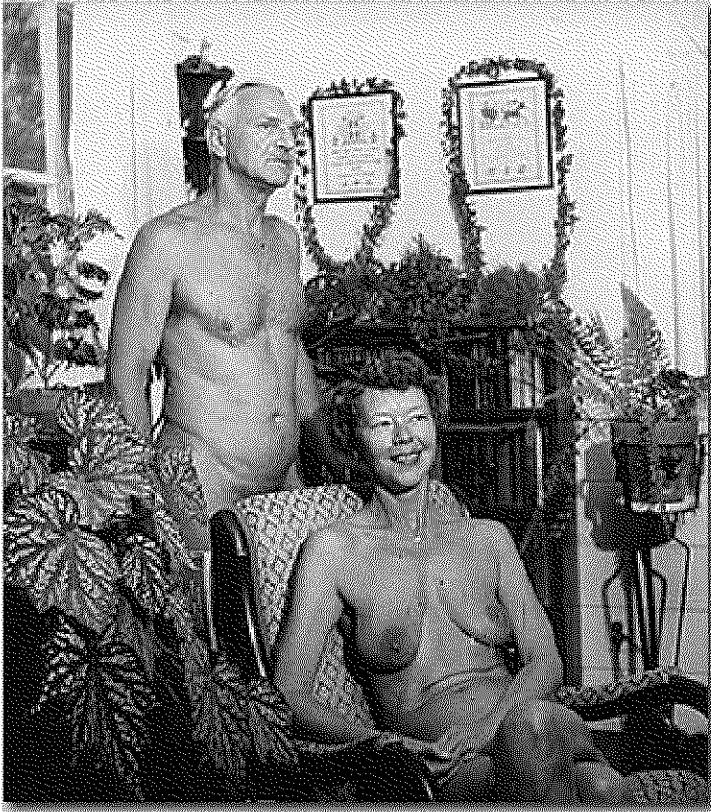
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History Buff

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At dinner and comfortably clothed once more, I'm still shocked when I glance up from my prime rib to see naked people eating dinner at the next table. When it comes time for the entertainment, I have no idea what to expect from the performance titled "Duelling Pianos." I look

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photo credits

Exhibit E

64
INTERNET ARCHIVE
waybackmachine

http://coastnews.com/santa_cruz/naked/naked.htm

Go

43 captures
21 Feb 01 - 29 May 13

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Contact

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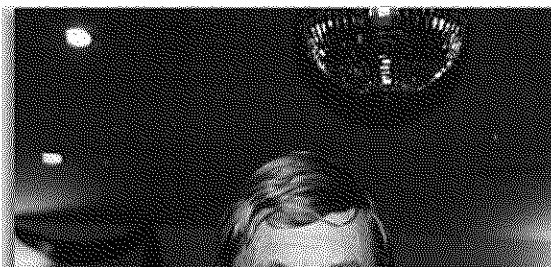
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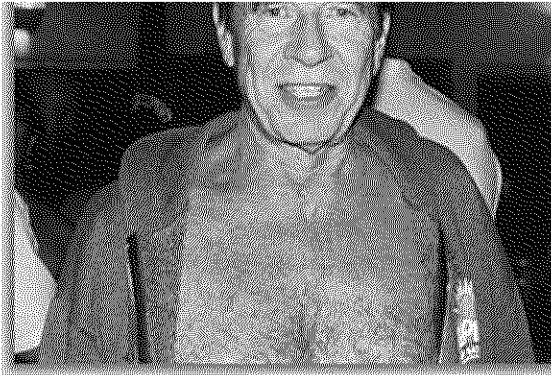
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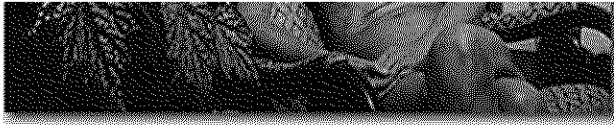
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photo credits

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*Superior Court of California,
 County of San Francisco*
AUG 29 2014
 Clerk of the Court
 BY: JUDITH NUNEZ
 Deputy Clerk

7 Attorneys for Defendant
 8 GOOGLE INC.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SAN FRANCISCO

10	S. LOUIS MARTIN,	)	Case No. CGC-14-539972
11)	
11	Plaintiff,	)	MEMORANDUM OF POINTS
12		)	AND AUTHORITIES IN
12	v.	)	SUPPORT OF DEFENDANT
13		)	GOOGLE INC. TO STRIKE
13	GOOGLE INC.,	)	PLAINTIFF'S COMPLAINT
14		)	PURSUANT TO CIV. PROC.
14	Defendant.	)	CODE § 425.16
15)	
16		)	Date: October 15, 2014
16		)	Time: 9:30 AM
17)	Dept: 302
17)	Reservation No.: 081114-12
18)	
18)	Complaint Filed: June 17, 2014
19)	
19)	
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Introduction

This is a suit for which the anti-SLAPP statute, California Code of Civil Procedure Section 425.16, is tailor-made. *Pro se* plaintiff S. Louis Martin claims that, regardless of Google's views, he is entitled to have his website highly ranked in Google's search results and entitled to receive third-party advertisements even on pages containing objectionable content. Put another way, according to the Plaintiff, Google's free speech rights regarding search result order and ad placement are trumped by Plaintiff's views.

The anti-SLAPP statute was specifically enacted to prevent meritless suits such as this from chilling the exercise of the constitutional right of free speech. *Tamkin v. CBS Broad., Inc.*, 193 Cal. App. 4th 133, 142, 122 Cal. Rptr. 3d 264 (2011); *Braun v. Chronicle Publ'g Co.*, 52 Cal. App. 4th 1036, 1042, 61 Cal. Rptr. 2d 58 (1997). While not necessary in this case, the legislature has directed that the statute's protections are to be applied broadly. Cal. Civ. Proc. Code § 425.16(a). This is true regardless of the size of the parties.

As discussed below, Google is easily able to make the threshold showing that the Plaintiff's claims arise from constitutionally protected activity, which includes any "act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue." Cal. Civ. Proc. Code § 425.16(e); *see also Navellier v. Sletten*, 29 Cal. 4th 82, 88, 124 Cal. Rptr. 2d 530 (2002). Upon doing so, the burden shifts to the plaintiff to establish a probability that it will prevail on each of its causes of action. Cal. Civ. Proc. Code § 425.16(b). For purposes of this motion, the plaintiff must "show both that the claim is legally sufficient and there is *admissible evidence* that, if credited, would be sufficient to sustain a favorable judgment." *McGarry v. Univ. of San Diego*, 154 Cal. App. 4th 97, 109, 64 Cal. Rptr. 11 3d 467 (2007) (emphasis added). The court "should grant the motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim." *Wilson v. Parker, Covert & Chidester*, 28 Cal. 4th 811, 821, 123 Cal. Rptr. 2d 19 (2002). For the reasons explained in Google's previously filed demurrer and supporting papers, Plaintiff fails to state any cause of action. Moreover, the underpinnings of Plaintiff's claims are expressly contradicted by indisputable facts. Thus,

1 Plaintiff is not able to meet either of its burdens, and any claim premised on Plaintiff's placement
2 in Google's search results or Google's decision to withdraw display advertisements from
3 Plaintiff's website should be struck. Pursuant to statute, Google should also be awarded its
4 attorney's fees sustained to date related to defending against Plaintiff's allegations.

5 Argument

6 **I. SUMMARY OF PLAINTIFF'S ALLEGATIONS**

7 **A. Allegations Regarding Search Results**

8 Plaintiff alleges that his website, CoastNews.com, has been discriminated against in
9 Google search results because it is not a Google property. Complaint ("Compl.") at 2-3. Plaintiff
10 broadly alleges that Google has wrongly failed to list CoastNews.com at the top of search results
11 and that the results Google does display are "deceptive." Compl. at 3-5. As one example,
12 Plaintiff alleges that Yahoo! and Bing, search engines that compete with Google, place his site in
13 "the top position" whereas Google does not do the same. Compl. at 2-3.

14 **B. Allegations Regarding Ad Placement**

15 Plaintiff alleges that Google stopped delivering third-party ads to his website because the
16 site contained photographs of a "nudist colony in the Santa Cruz mountains." Compl. at 7-
17 8. Plaintiff further alleges that Google "charged CoastNews.com with being a 'pornography'
18 website" and requested that Plaintiff "remove the article or ad code from the page [where the
19 photographs appeared]." *Id.* Plaintiff claims this evidences Google's desire to "'sanitize' all
20 pages" and engage in a "holy war against certain words." *Id.* Plaintiff claims that, because he
21 refused to comply with Google's policies, Google discontinued delivery of ads to Plaintiff's
22 site. *Id.* at 10. Plaintiff claims that this left his website "severely marred aesthetically." *Id.*

23 **II. PLAINTIFF'S CLAIMS ARISE FROM GOOGLE'S EXERCISE OF ITS** 24 **CONSTITUTIONALLY PROTECTED FREE SPEECH RIGHTS**

25 The anti-SLAPP statute expressly protects "any written or oral statement or writing made
26 in a place open to the public or a public forum in connection with an issue of public interest" and
27 "any other conduct in furtherance of the exercise of the constitutional right of petition or the
28 constitutional right of free speech in connection with a public issue or an issue of public

1 interest.” Cal. Civ. Proc. Code § 425.16(e)(3)-(4). At base, Plaintiff claims that his website is
2 entitled to better treatment in Google’s search results and that he is entitled to receive
3 advertisements regardless of Google’s policy not to serve ads on pages containing objectionable
4 content. Both of these claims plainly arise from Google’s exercise of constitutionally protected
5 free speech rights. Plaintiff’s complaint itself also emphasizes that the development of Google’s
6 search results and its advertising program affect the public interest. Plaintiff’s claims thus fall
7 squarely within the anti-SLAPP statute.

8 **A. Google’s Search Result Order and Ad Placement Opinions are**
9 **Constitutionally Protected Speech**

10 Every court to consider the question of whether a search engine’s ordering of search results
11 constitutes constitutionally protected opinion has answered in the affirmative. *See Zhang v.*
12 *Baidu.com, Inc.*, No. 11-3388, 2014 WL 1282730, at *4 (S.D.N.Y. Mar. 28, 2014) (search
13 engines’ editorial decisions as to the ranking of search results are fully protected First Amendment
14 expression); *Langdon v. Google, Inc.*, 474 F. Supp. 2d 622, 629-30 (D. Del. 2007) (plaintiff’s
15 demand that Google’s search results and ad placement be more favorable to it contravenes
16 Google’s First Amendment Rights); *Search King, Inc. v. Google Tech., Inc.*, No. CIV-02-1457-
17 M, 2003 WL 21464568, at *4 (W.D. Okla. May 27, 2003) (Google’s opinions about the ranking of
18 search results are constitutionally protected speech). Just a few months ago in *Zhang*, the
19 Southern District of New York expressly held that, under the facts in that case, “the First
20 Amendment protects as speech the results produced by an Internet search engine.” *Zhang*, 2014
21 WL 1282730, at *1.

22 All of these decisions are analogous to *Blatty v. N.Y. Times Co.*, 42 Cal. 3d 1033, 1048
23 (1986). In that case, the California Supreme Court found that a book publisher who was upset
24 about its exclusion from the New York Times renowned best seller list could not sue the Times,
25 because the creation of the best-seller list was expression protected under the First Amendment.
26 As the court held in *Blatty*, “statements of opinion, ‘[however] pernicious,’ are immunized by the
27 First Amendment in order to insure that their ‘correction [depends] not on the conscience of
28 judges and juries but on the competition of other ideas.’” *Id.* at 1044 (citation omitted). In the

1 same way, Google's search results express Google's opinion on which websites are most likely to
2 be helpful to the user in response to a query and are thus fully protected by the First Amendment.

3 Google's decisions as to whether or not place advertisements on a particular website also
4 involve editorial discretion and are thus protected under the First Amendment. *See e.g., Stewart v.*
5 *Rolling Stone LLC*, 181 Cal. App. 4th 664, 678, 105 Cal. Rptr. 3d 98 (2010) (dismissing claims on
6 the basis that Rolling Stone was free to arrange third-party advertisements as it saw fit); *Langdon*,
7 474 F. Supp. 2d at 629-30 (plaintiff's demand that Google's search results and ad placement be
8 more favorable to it contravened Google's First Amendment Rights).

9 Thus, there can be no dispute that Plaintiff's suit challenges Google's constitutionally
10 protected speech.

11 **B. Google's Editorial Decisions are a Matter of Public Interest**

12 The Plaintiff's complaint itself demonstrates that Google's conduct at issue in this case
13 took place in a public forum and is connected with issues of public interest. While Plaintiff claims
14 damage on behalf of himself, he also alleges that Google's search results and advertising programs
15 affect a large percentage of websites and small businesses. Compl. at 2 (alleging that Google's
16 search results are "unfair to smaller business" including his own), 11 (alleging that Google
17 "mak[es] small business competitors invisible and thus incapable of doing business on the
18 Internet"). Plaintiff additionally alleges that Google, by exercising its right to choose where it
19 places third-party advertisements on websites such as Plaintiff's is engaging in "a holy war against
20 certain words." *Id.* at 7. The opposite is true. Plaintiff's suit seeks to alter Google's public
21 speech so that his own interests are served rather than those of Google's users.¹ Put another way,
22 if Plaintiff has his way, any site could bring suit against a search engine claiming that the engine's
23 editorial decisions did not suit its interests, demanding alteration of results that have served the
24 interests of millions. It is beyond dispute that Plaintiff's suit invokes the public interest, and
25 should be struck under the anti-SLAPP statute for this very reason.

26 _____
27 ¹ Indeed, this is precisely why the Communications Decency Act, discussed in Google's
28 demurrer reflecting First Amendment concerns, expressly authorizes Google's conduct here.

1 **III. PLAINTIFF CANNOT DEMONSTRATE A PROBABILITY THAT HE WILL**
2 **PREVAIL ON HIS CLAIMS**

3 Because Plaintiff's claims are based on a challenge to Google's exercise of constitutionally
4 protected expression, Plaintiff has the burden of establishing that he has a probability of success
5 on the merits. An anti-SLAPP motion thus "operates like a demurrer or motion for summary
6 judgment in 'reverse.' . . . [T]he motion requires the plaintiff to demonstrate that he possesses a
7 legally sufficient claim which is 'substantiated,' that is, supported by competent, admissible
8 evidence." *USANA Health Sciences, Inc. v. Minkow*, No. 2:07-CV-159, 2008 WL 619287, at *5
9 (D. Utah Mar. 4, 2008) (quoting *Coll. Hosp. Inc. v. Superior Court*, 8 Cal. 4th 704, 34 Cal. Rptr.
10 2d 898 (1994)).

11 First, Plaintiff does not and cannot offer any evidence that his claims can survive in light of
12 Google's First Amendment protections and federal statutory protection for the kind of editorial
13 function that Plaintiff challenges.² Google's editorial discretion with respect to both the ordering
14 of its search results and its ad placement decisions are constitutionally protected under the First
15 Amendment. Google's Demurrer to Plaintiff's Complaint ("Demurrer") at 4-5. Moreover, the
16 Communications Decency Act specifically precludes state law claims based on an Internet Service
17 Provider's restriction of use of its services for objectionable purposes. Demurrer at 5-6. For these
18 reasons, stated more fully in Google's previously filed demurrer, the complaint should be
19 dismissed with prejudice, and the instant motion should be granted in tandem.

20 Although not necessary for the Court's consideration of this motion, Google also notes that
21 the complaint contains several false statements, two of which underlie the thrust of Plaintiff's
22 claims: the allegations that (1) Google violated competition laws as confirmed by the Federal
23 Trade Commission ("FTC"), and (2) there is nothing objectionable about the content Plaintiff
24 posted and Google improperly requested that such content be removed if it was going to continue
25 delivering ads to his site.

26
27
28 ² Nearly identical claims have already been dismissed in Small Claims court.

1 **The FTC found the opposite of what Plaintiff’s claims.** On the very first page of
2 Plaintiff’s latest complaint, he alleges that in violation of competition law, “Google returns biased
3 search results that favor its own paid advertisers and Google-owned companies. The FTC
4 confirmed this in a January 2013 ruling.” Compl. at 2. The FTC actually found the opposite,
5 closing its “wide ranging” investigation and finding no actual or incipient violation of law in
6 relation to the claims that Plaintiff makes here. Exhibit A to the Declaration of David
7 Reichenberg in Support of Google’s Motion to Strike (“Reichenberg Dec.”) at 1, 4. After
8 reviewing, *inter alia*, over nine million pages of documents, the Commission specifically found:

9 The totality of the evidence indicates that, in the main, Google adopted the design
10 changes that the Commission investigated to improve the quality of its search
11 results, and that any negative impact on actual or potential competitors was
12 incidental to that purpose. *While some of Google’s rivals may have lost sales due*
13 *to an improvement in Google’s product, these types of adverse effects on*
14 *particular competitors from vigorous rivalry are a common byproduct of*
15 *“competition on the merits” and the competitive process that the law*
16 *encourages.*

17 *Id.* at 1-2 (emphasis added). Thus, not only did the FTC find that there was no violation of the law,
18 it precisely rejected the type of bias-based competition claim Plaintiff attempts to make
19 here. *Id.* Plaintiff cannot introduce any evidence to rebut this finding—instead, he misrepresents
20 what the Commission found.

21 **Google does not have to deliver ads to Plaintiff’s website that contained nudity.** In
22 addition to the reasons explained in Google’s demurrer and the instant motion, Google’s own
23 agreement with Plaintiff gives it the right to withhold placement of ads on sites that contain
24 nudity. Specifically, the AdSense Terms and Conditions (“T&C”) to which Plaintiff agreed
25 specifically incorporate the AdSense Program Policies, and there is a specific policy giving
26 Google the right to withhold ads from websites containing any nudity (“nudity
27 policy”). Reichenberg Dec. Exhs. B, C.

28

1 The article referenced by Plaintiff's complaint indisputably contained nudity, including a
2 naked man playing a piano. *See* Reichenberg Decl. Exhs. D, E. When Google requested that this
3 article be removed, it specifically referenced the nudity policy. *See* Exh. A to the Declaration of
4 Jacob Hauber in Support of Google's Motion to Strike ("Hauber Dec."). Plaintiff nonetheless kept
5 the article posted on his site (*see* Hauber Dec. Exh. B), and thus Google was not only within its
6 constitutional and federal rights when it opted to stop delivering ads to the site, but was also
7 within its contractual rights. Plaintiff cannot cite to any evidence that the AdSense T&C and
8 Policies do not apply to him.

9 For these reasons, Plaintiff cannot meet his burden that it has a likelihood of success on
10 any of its claims that challenge Google's constitutionally protected conduct.

11 **IV. GOOGLE IS ENTITLED TO ATTORNEY'S FEES**

12 Under California Code of Civil Procedure Section 425.16(c), a defendant who prevails on
13 an anti-SLAPP motion "shall be entitled to recover his or her attorney's fees and costs." An
14 award of attorney's fees to a prevailing defendant on a special motion to strike is mandatory. *See*
15 *Pfeiffer Venice Props. v. Bernard*, 101 Cal. App. 4th 211, 215, 123 Cal. Rptr. 2d 647 (2002). The
16 total fees that Google will ultimately incur in defense of the claims at issue here cannot be
17 determined until this motion and Google's demurrer are resolved. At that point, Google will
18 submit evidence to support a claim for its expenses at a time and in a manner that is convenient for
19 the Court.

20 Dated: August 29, 2014

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

22 By /s/ David H. Reichenberg
23 David H. Reichenberg

24 Attorneys for Defendant
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6
 7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 8 **COUNTY OF SAN FRANCISCO**

9
 10
 11
 12 S. LOUIS MARTIN,) Case Number CGC-14-53997
 13 Plaintiff)
 14 V) REBUTTAL TO GOOGLE'S
 15 GOOGLE, INC.) DEMURRER WITH REBUTAL TITLE:
 16 Defendant) THE CASE FOR CONTINUING
 17) THE CASE AGAINST GOOGLE -
 18) AND REJECTING ITS DEMURRER
 19) REQUEST
 20)
 21) 10 September 2014
 22 _____)

23 **THE CASE FOR CONTINUING THE CASE AGAINST GOOGLE—AND REJECTING ITS**
24 **DEMURRER REQUEST**

25

26 Note: This document is a point-by point response to Google's demurrer request
27 and includes some additional comments on why this case is so important and
28 should move forward.

29

30

31 1. Google is not a Publisher and therefore does not have First Amendment
32 protection.

33

34 Google is a software company that generates lists of URLs in response to user
35 queries. It is profit-oriented and biased in favor of its own properties and
36 AdWords customers. Neither Wikipedia nor the Merriam-Webster dictionary
37 views Google as a publisher. They do not use the word "publisher" to define or
38 describe Google. Google is simply promoting the notion that it is a publisher in
39 order to gain First Amendment protection from antitrust and other serious
40 violations of business law.

41

42 Google is also promoting an Orwellian use of language by metaphorically
43 stretching the use of words. By Google's standard, Ace Hardware might call itself
44 a publisher of toilet seats, monkey wrenches, ... to avoid consumer-rights laws.

45

46 Here is the Wikipedia definition of a search engine:

47

48 A web search engine is a software system that is designed to search for
49 information on the World Wide Web. The search results are generally presented
50 in a line of results often referred to as search engine results pages (SERPs). The
51 information may be a mix of web pages, images, and other types of files....

52

53 Here is the Merriam Webster definition:

54

55 *computer software used to search data (as text or a database) for specified*
56 *information; also : a site on the World Wide Web that uses such software to locate*
57 *key words in other sites*

58

59 Neither Wikipedia nor Merriam-Webster refers to a search engine as a
60 "publisher".

61

62 Here is the Wikipedia definition of Publishing:

63

64 *Publishing includes the stages of the development, acquisition, copy editing,*
65 *graphic design, production – ...*

66

67 Here is the Merriam Webster definition of Publishing:

68

69 *the business or profession of the commercial production and issuance of literature,*
70 *information, musical scores or sometimes recordings, ...*

71

72 Does any of this sound like Google? Does either definition include software-
73 automated URL-list generators? No! Google is trying to engage the court in a
74 fantasy that only it, Google, believes in.

75

76 2. Regarding the Communications Decency Act (CDA), Google calls itself an
77 "interactive computer service." This is a lot closer to what Google is. The user
78 types in words of interest; Google's software returns a list of URLs that may or
79 may not be of interest. There is nothing exotic about the basic process. What is
80 exotic is the behind-the-scene manipulation of URL choices, which bears
81 comparison to the slight of hand of an evil magician.

82

83 Google does not, as it suggests, make "value judgments," as any real publisher
84 would. Instead, Google makes economic calculations. Many, if not most, of the
85 URLs returned are paid for and not the best choices for users (consumers); and of
86 course such practice harms Google's competitors, who are made invisible. Top-
87 notch competitors, such as CoastNews, Foundem, NexTag, yelp ... are routinely
88 "disappeared" so they do not block the visibility of paid Google sites.

89

90 Be sure, also, we are not talking about "editorial opinion" here, as Google
91 suggests; we are talking about paid advertising and favoritism. By virtue of its
92 monopoly status, Google plays the critical role of gatekeeper to the Internet and
93 the World Wide Web; but, due to monetary conflict of interest, Google has played
94 a dubious role. Google has proven to be a bad actor, much like a border patrol
95 agent who takes bribes to let some in, keep others out.

96

97 Google uses CDA section 230 (c) (2) to justify "disappearing", or making invisible,
98 CoastNews.

99

100 CDA says:

101

102 *any action voluntarily taken in good faith to restrict access to or availability of*
103 *material that the provider or user considers to be obscene, lewd, lascivious, filthy,*
104 *excessively violent, harassing, or otherwise objectionable, whether or not such*
105 *material is constitutionally protected; ...*

106

107 No one considers nudist-colony nudity "obscene, lewd, lascivious, or filthy." This is
108 a Google invention and perpetuated by Google in "bad faith" to justify
109 disappearing CoastNews so that Google can move in its own properties.

110

111 But apparently Google did not read the complaint properly. Per Google's request,
112 CoastNews did remove Google ad code from the nudist-colony page. That made
113 no difference, however. On Google's appeal response, Google simply stated that
114 it was denied and that there could be other, though unspecified, problems on
115 CoastNews pages.

116

117 Bottom line: We complied with the Google request. The demurrer/answer does
118 not acknowledge that. There was in fact no cause for the permanent removal of
119 CoastNews from Google search result URLs listings and for the non-delivery of
120 ads.

121

122 3. Google's demurrer seems to be mostly a "boiler plate" response to the
123 CoastNews complaint, which Google seems to have read in haste. The main trust
124 of Google's argument is that it, Google, is immune from antitrust law and fair
125 business practices. Google's shield is the claim that it is a publisher and has
126 immunity to antitrust law via First Amendment rights; it then uses free speech as
127 a tool of censorship.

128

129 Changing hats to become a "service provider," Google then falsely applies the
130 Communication Decency Act to do whatever it wants. We don't buy this
131 argument and demand that Google be held accountable, as smaller business
132 surely would be, for its bad behavior.

133

134 4. Google's answer says that the plaintiff does not find the content objectionable
135 (nudist colony article). That is true—virtually no rational human being would—but
136 this was not stated in the complaint. And since the "objectionable" material was
137 removed, this was never an issue; it was simply used as an excuse by Google.
138 However, for the record, Wikipedia makes clear that nudist-colony photos are not
139 considered pornography. See

140

141 What is not pornography:

142

143 <http://en.wikipedia.org/wiki/Pornography>

144

145 See also COMMONWEALTH v. John REX.

146

147 Merriam-Webster defines pornography this way:

148

149 *the depiction of erotic behavior (as in pictures or writing) intended to cause sexual*
150 *excitement*

151

152 Nudist colonies are not about "sexual excitement," in fact one of the points made
153 in Andrea Perkins insightful article.

154

155 It appears that Google has a unique view on what is pornographic and what is
156 not—based on who is paying the gatekeeper.

157

158 Common sense says the same thing about pornography and nudist colonies. Thus
159 it appears that Google has used this as an excuse to get CoastNews out of the
160 way; even though, as stated, it is a non-issue, as CoastNews complied with
161 Google's request.

162

163 5. The statement in the complaint about Google AdWords and AdSense is correct.
164 The original contract makes this condition abundantly clear. Google has changed
165 its written policy since then, but warnings are still out there from SEO engineers.

166

167 6. As with Foundem and others, we were disappeared. As with Foundem and
168 others, we went from the top listing to the bottom (disappeared) while still being
169 recognized as #1 on Bing and Yahoo. We had been #1 on Google for a number of
170 years until restaurant properties became extremely valuable. Then, abracadabra,
171 we don't exist. A child would understand the "magic" involved in this.

172

173 7. On the surface Google appears to be engaged in a holy war against certain
174 words, such as "pregnancy" and "disease", but it appears to be a disingenuous
175 holy war. In reality it appears to be an excuse to disappear some sites, as searches
176 with keywords of "sex" and "disease" do turn return URLs of sites with Google
177 ads.

178

179 Example, mayoclinic.org, medicinenet.org ...

180

181 The Google holy war on language and thought appears to be applied selectively.

182

183 8. The demurrer does not work here. We have many, many facts now on Google
184 abuses and deceptions with solid documented evidence; and we will have many
185 more by the time of the trial.

186

187 9. Aesthetic damage to CoastNews is extensive. It constitutes wanton damage to
188 business property, akin in older times to torching the business offices of a
189 competitor. We will demonstrate this as evidence.

190

191 10. Statement in demurrer that we sought better placement is misleading. We
192 never sought better placement; we were always at or near the top. What we
193 sought was fair placement. What we got was no placement, or placement so low
194 as to be virtually invisible, so that lesser-quality Google properties could be
195 moved into our previous position.

196

197 11. Google is not a publisher and does not deserve, as demurrer states, the status
198 of the New York Times. It is a piece of software that generates lists of URLs; there
199 is simply no comparison between a real publisher and Google. Google makes no
200 fine editorial judgments, as do publishers, and it produces nothing other than
201 lists; it has no content and it does not edit anything. Its only judgments are made
202 by software programmed to give Google's paid properties an advantage over
203 others.

204

205 This is an abuse of monopoly power both to consumers by promoting lesser-
206 quality websites over better ones and to smaller businesses by making them
207 invisible.

208

209 12. The following statement made in the demurrer is simply absurd:

210

211 The plaintiff's allegations highlight precisely the competition among opinions that
212 the First Amendment aims to protect. Plaintiff's complaint with Google's opinion
213 regarding the placement of ads on a website containing objectionable content
214 does the same.

215

216 Are we speaking English here? allegations highlight precisely the competition
217 among opinions? I fear that a skilled interpreter will be required to extract the
218 meaning from these two sentences. (Note: The First Amendment deals with
219 freedom of speech and press, not with pseudo-publishers' desires to suppress
220 these rights in the name of competition.) But wait! That won't be necessary, as
221 there is no issue here; ad code was removed per Google's request.

222

223 Attorneys need to read the complaint with care. We complied and there was no
224 objectionable content of any sort, either before or after removal.

225

226

227

228 13. Google's contention that it is a publisher is simply preposterous; moreover,
229 Google does not show "editorial judgment." It demonstrates quite the opposite—
230 a lack of good judgment or even common sense. We are the publisher, not

231 Google. Google is a notorious, world-wide thief of content. Some thieves go to
232 jail; Google gets rich.

233

234 Read "Foundem's Google Story":

235

236 [http://www.searchneutrality.org/eu-launches-formal-investigation/foundem-
237 google-story](http://www.searchneutrality.org/eu-launches-formal-investigation/foundem-
237 google-story)

238

239 Google is software. Input is words of interest; output is a list of URLs that is
240 manipulated to make Google money. Google is a dishonest gatekeeper who
241 blocks access to many honest sites.

242

243 14. If Google wants to clean up pornography, why doesn't it clean up its own? It
244 is the largest pornography site in the world, which includes child pornography as
245 well. Want to see a "hunk" having sex with a 12-year-old girl? Go to
246 images.google.com or videos.google.com and enter "young naked girls".

247

248 Google has been asked to remove its pornography numerous times but refuses.
249 Google's hypocrisy is unprecedented. It is like Satan accusing the Virgin Mary of
250 being an adulteress for having given birth to the Lord Jesus Christ.

251

252 15. The statement about the Communications Decency Act is irrelevant. The ad
253 code was removed per Google's request. Notice that Google put back on the hat
254 of an "internet service provider" in the related section of its demurrer. Google has
255 misread the complaint. When the ad code was removed, Google still refused to
256 reinstate ads, stating that there could be other, though unspecified, problems.

257

258 How fair is that? Google is ending an 8+ year "partnership" for reasons it won't
259 discuss. This is arbitrary and dictatorial, which may not be illegal in itself. But it is
260 also deceitful, as the real motivation appears to be getting CoastNews out of the
261 way so as to move in Google properties. If that is so—we intend to prove it—it is
262 deceptive business practice. CDA 230 talks about action taken in "good faith";
263 clearly this action was taken in "bad faith".

264

265 Note: CDA law specifies "good faith." Google clearly acted in "bad faith" in
266 removing CoastNews. However, this is a mute point as CoastNews did comply and
267 remove ad code from the page that world-class pornographer Google found
268 objectionable.

269

270 This is irrelevant in light of the fact that the ad code was removed, but it is
271 interesting to speculate: If Google found material objectionable because it dealt
272 with racial issues, would CDA allow them to remove it? Let us say an article on Dr.
273 Martin Luther King? Would it be okay to remove it because Google finds African-
274 Americans objectionable? Is there not some limit to the use of the phrase
275 "otherwise objectionable" as stated in CDA 230?

276

277 16. Regarding the exclusivity claim (can't do business with anyone but Google),
278 there was such a contract when I signed up; it is also well known that Google will
279 lower a website's organic search rating if non-Google ads appear on pages with
280 Google's ads. Google has simply rewritten the contract, which it claims the right
281 to do any time.

282

283 17. Google claims we don't specify injury. Making a website invisible is a death
284 sentence to a business. This is well known. Read Foundem's and yelp's stories of

285 being disappeared. If customers don't know you exist, this is death to the
286 business. Google knows this and uses its monopoly position as gatekeeper to the
287 internet to either extract extravagant fees from website operators—Google says
288 32 % but the fees appear much larger—or make websites invisible.

289

290 The injury from Google's behavior is obvious and it was specified in the complaint.
291 It has done the same to Foundem, yelp, and others. Google has created an
292 environment in which it is impossible for none other than Google to succeed.
293 Google either economically stifles other businesses so they cannot grow, or it
294 outright kills them. This is precisely what antitrust law is designed to prevent.

295

296 18. Google's attempt to get the case dismissed via demurrer is disingenuous.
297 Google is attempting to shield itself from serious business-law violations by taking
298 refuge in rights it does not have. Google's reasoning is clear: publishers can do
299 anything they want, therefore Google is a publisher. Google is hiding behind laws
300 that do not apply to it in order to commit antitrust abuse. As a pseudo publisher,
301 Google is invoking free-speech, First Amendment rights to censure genuine
302 publishers.

303

304 19. We have already compiled considerable evidence to prove our case. It can be
305 viewed online here:

306

307 Corroboration of Experts

308

309 http://coastnews.com/google/experts_corroboration.html

310

311 Additional Links

312

313 <http://coastnews.com/google/more-links.html>

314

315 The complaint can be viewed online here:

316

317 THE CASE AGAINST GOOGLE

318

319 <http://coastnews.com/google/google-complaint-new-2.html>

320

321 And an enhanced version with links to prove assertions can be viewed here:

322

323 THE CASE AGAINST GOOGLE (enhanced)

324

325 <http://coastnews.com/google/google-complaint-new-3.html>

326

327 It has links that prove assertions about ratings and Google's pornography sites.

328 WARNING: Google's pornography sites are truly disgusting and filthy.

329

330 We also plan to obtain depositions from key players from Google along with
331 industry experts. We may involve the Stanford Philosophy department as well, as
332 they have shown considerable interest in the issue of search-engine abuse.

333

334 20. Finally, Google completely fails to address the third issue named in the
335 complaint: The wanton destruction of business property by giving us only three
336 days to remove ad code. Surely they knew what the result would be.

337

338 21. It is imperative that this case move forward to prevent further antitrust
339 violations, to halt deceptive business practices, and to stop the destructive, we-
340 can-do-anything-we-want behavior and attitude of behemoth Google. From
341 seemingly innocent beginnings, the company has grown into a monster of greed
342 that knows no boundaries.

343

344

345 Prepared by Dr. S. Louis Martin

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6
 7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 8 **COUNTY OF SAN FRANCISCO**

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S. LOUIS MARTIN,) Case Number CGC-14-539972
Plaintiff)
V) EVIDENCE:
GOOGLE, INC.) CORROBORATION OF EXPERTS
Defendant)
	) 12 September 2014
)

23 **EVIDENCE: CORROBORATION OF EXPERTS**

24

25

26 "If you don't call this a MONOPOLY, let me know the definition of monopoly...,"
27 says Ahmet Kirtok on Small Business Arena regarding Google-only AdWords
28 policy.

29

30 (on Monopoly/Anti-trust) "Investors are skeptical of betting on mostly

31

32 "Investors are skeptical of betting on mostly unprofitable unprofitable upstarts in
33 a highly fragmented market, where Google has the power to control pricing and
34 crush competitors," says Michael Binger, a portfolio manager at Gradient
35 Investments LLC and Google shareholder. —FAIR SEARCH

36

37 Michael Binger serves as senior portfolio manager for Gradient Investments, LLC,
38 and has over 24 years of institutional equity investment experience.

39

40 (on Monopoly/Anti-trust)

41

42 "I do believe that Google's practices are worthy of discussion with competition
43 authority, and we have certainly discussed them with competition authorities,"
44 said Ballmer of Microsoft. "I don't think their practices are getting less meritorious
45 of discussion." —Steve Ballmer on The Verge

46

47 (on Monopoly/Anti-trust)

48

49 "The restrictions are such that online writers who need to earn a living must stick
50 to stories about fluff and celebrities and anything that can have a happy face
51 plastered over it," says writer Rupert Taylor on site.io.

52

53 (on AdSense)

54

55 "Google founders Brin and Page (1998, 18), who initially opposed the idea of paid
56 advertisement on search engines, noted that it would seem reasonable to

57

58 *expect that advertising funded search engines will be inherently biased towards*
59 *the advertisers and away from the needs of consumers... Since it is very difficult*
60 *even for experts to evaluate search engines, search engine bias is particularly*
61 *insidious...[and] less blatant bias are likely to be tolerated by the market.*

62

63 The study goes on to state:

64

65 "Search engines have often been described as the 'gatekeepers of cyberspace,'
66 and some critics note that this has significant implications for democracy. For
67 example, Diaz (2008, 11) points out that

68

69 *if we believe in the principles of deliberative democracy—and especially if we*
70 *believe that the Web is an open 'democratic' medium—then we should expect our*
71 *search engines to disseminate a broad spectrum of information on any given*
72 *topic.*

73

74 "Hinman (2005, 25) makes a similar point, when he notes that 'the flourishing of
75 deliberative democracy is dependent on the free and undistorted access to
76 information.' And because search engines are 'increasingly the principal
77 gatekeepers of knowledge,' Hinman argues that 'we find ourselves moving in a
78 philosophically dangerous position.'"

79

80 —from Search Engines and Ethics from the Stanford Encyclopedia of Philosophy

81

82 (on Philosophy/Ethics)

83

84 "Officials from Orange and Santa Clara counties—both hit hard by overdose
85 deaths, emergency room visits and escalating medical costs associated with
86 prescription narcotics —contend the drug makers violated California laws against
87 false advertising, unfair business practices and creating a public nuisance." —from
88 LA Times, 22 May 2014

89

90 (on AdWords)

91

92 "O'Connor founded FindTheBest in 2009 after selling his ad network, DoubleClick,
93 to Google for \$3.1 billion two years earlier.

94

95 He was frustrated by the lack of easily available quality information when he
96 searched Google for phrases like 'what's the best ski resort?' He wanted to build a
97 site that would let people enter such queries and receive a trove of useful
98 information that would help them make an informed decision about, say, where

99 to spend that ski holiday. (O'Connor was disappointed when a search steered him
100 to Deer Valley, Utah.)" ...

101

102 "'The pattern we are seeing is that people find search systems that let them focus
103 on their main interests or within specific online communities,' said Ray Larson, a
104 professor at UC Berkeley's School of Information. 'I suspect that part of the
105 reason that these niche search systems are springing up is that nobody can afford
106 to compete with Google head-to-head, but for specialized markets they can get
107 some traction.'" ...

108

109 —The Chronicle with Bloomberg/SF Gate, 13 May 2014

110

111 (on Monopoly/Antitrust)

112

113 "The would-be AdSense customer who filed suit against Google for fraud and
114 misrepresentation says the search company also entered her Gmail account and
115 removed all communications regarding the dispute, Google Watch has learned."
116 —eWEEK, 2006-09-05

117

118 (on AdSense)

119

120 Evidence: Additional Corroboration Links

121

122 By Dr. S. Louis Martin

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 7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 8 **COUNTY OF SAN FRANCISCO**

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 12 S. LOUIS MARTIN,) Case Number CGC-14-53997
 13 Plaintiff)
 14 V) EVIDENCE: ADDITIONAL
 15 GOOGLE, INC.) CORROBORATION LINKS
 16 Defendant)
 17) 12 September 2014
 18)

19 _____
 20
 21
 22

23 **Evidence: Additional Corroboration Links**

24

25

26

27 Do No Evil? Google's Deceptive Practices Harm Consumers (Forbes):

28

29 ...

30

31 Google harms consumers by misrepresenting its search results as unbiased and
32 aligned with users' interests when the facts show they are not. The issue will
33 come to a head in the Federal Trade Commission's antitrust investigation of
34 Google.

35

36 Google implies it is immune to antitrust laws, because consumers benefit so much
37 from Google's search engine and over 500 other free products and services. This
38 "Google is really a philanthropist, not a business" argument is not an antitrust
39 defense, but a highly deceptive misrepresentation of their business.

40

41 ...

42

43 [http://www.forbes.com/sites/ciocentral/2011/07/15/do-no-evil-googles-](http://www.forbes.com/sites/ciocentral/2011/07/15/do-no-evil-googles-deceptive-practices-harm-consumers/)
44 [deceptive-practices-harm-consumers/](http://www.forbes.com/sites/ciocentral/2011/07/15/do-no-evil-googles-deceptive-practices-harm-consumers/)

45

46 (on Antitrust/Harm to Consumer)

47

48 Google's 'Bait & Switch' Deception Exposed at Hearing (FORBES):

49

50 ...

51

52 Yesterday's Senate antitrust hearing on Google exposed Google's core antitrust
53 vulnerability, that Google has perpetrated what maybe the largest "bait and
54 switch" scheme ever.

55

56 Simply, Google has baited over a billion users to implicitly trust Google Search by
57 continuously promising that its search engine is unbiased and "always does what
58 is best for the user." However, as Google's market power has grown over time,
59 the evidence shows Google has increasingly switched its MO to biasing Google
60 Search rankings by putting Google's interests over users' best interests by ranking
61 Google-owned properties over competitors' properties — without fairly
62 representing this major business model shift and new clear financial conflict of
63 interest to those affected. This core deceptive 'bait and switch' business practice
64 of Google's was effectively the overarching and recurring theme of the Senate
65 Judiciary antitrust hearing on Google's monopoly power.

66

67 Nextag's CEO testified that they started their business because Google offered the
68 promise of a level playing field (the bait), but that over time that changed (the
69 switch), as Google increasingly promoted its own content over other websites'
70 that Google now viewed as competitors. Yelp's CEO testified that Google offered
71 to work closely with Yelp as a partner (the bait), but then learned Google was
72 really interested in learning the intricacies of Yelp's business so that it could
73 compete with Yelp's business (the switch). Jeremy Stoppelman, Yelp's CEO
74 concisely described the switch in Google's business model: "Google is no longer in

75 the business of sending people to the best sources of information on the Web,”
76 “It now hopes to be a destination market itself” per the WSJ. In his opening
77 remarks, Senate Antitrust Subcommittee Chairman Kohl spotlighted Google’s
78 change in business model indicating that Google’s many acquisitions have
79 changed Google from just a search engine to a “major Internet conglomerate.” In
80 a nutshell, unbiased search engine has become conflicted Googlomerate.

81

82 ...

83

84 [http://www.forbes.com/sites/scottcleland/2011/09/22/googles-bait-switch-](http://www.forbes.com/sites/scottcleland/2011/09/22/googles-bait-switch-deception-exposed-at-hearing/)
85 [deception-exposed-at-hearing/](http://www.forbes.com/sites/scottcleland/2011/09/22/googles-bait-switch-deception-exposed-at-hearing/)

86

87 (on Monopoly/Antitrust/Harm to Consumer, Competition)

88

89 Google rival slams EU Commission over antitrust settlement proposals (PC World):

90

91 ...

92

93 Almunia, the Commissioner responsible for competition matters, said in February
94 that these settlement proposals were acceptable. He has been working since to
95 convince the complainants and his fellow commissioners of this, and expects to
96 close the case later this year.

97

98 However, Foundem said Wednesday, contrary to the Commission's claims, the
99 proposed rival links will consume the majority of rivals' profits and will not be
100 selected according to "relevance", "merit", or "quality".

101

102 Further, it said, the paid links will not be less expensive than existing
103 advertisements, will not ensure that innovative new entrants can participate on
104 non-disadvantageous terms and most certainly will generate billions of dollars of
105 additional revenue for Google that will come at the direct expense of the
106 European businesses and consumers the Commission is duty bound to protect.

107

108 "It is now apparent that many of the spurious arguments the Commission has
109 been making in defence of Google's proposals were adopted wholesale from
110 Google arguments," it said.

111

112 ...

113

114 ([http://www.pcworld.com/article/2457300/google-rival-slams-eu-commission-
115 over-antitrust-settlement-proposals.html](http://www.pcworld.com/article/2457300/google-rival-slams-eu-commission-over-antitrust-settlement-proposals.html))

116

117 (on Monopoly/Antitrust in EU)

118

119 EU May Need Extra Concessions From Google Antitrust Probe (Bloomberg):

120

121 ...

122

123 Google competitors “continue to have serious concerns” about the planned
124 settlement and need a decision that remedies past abuses and acts as a sufficient
125 deterrent to future competition issues, said David Wood, a lawyer in Brussels
126 representing opponents of the deal. U.K. shopping comparison site Foundem told
127 Almunia in an open letter that the current pact’s auction of links would generate
128 billions of dollars of revenue for Google at the expense of smaller rivals.

129

130 ...

131

132 [http://www.bloomberg.com/news/2014-07-22/eu-may-need-extra-concessions-](http://www.bloomberg.com/news/2014-07-22/eu-may-need-extra-concessions-from-google-antitrust-probe.html)
133 [from-google-antitrust-probe.html](http://www.bloomberg.com/news/2014-07-22/eu-may-need-extra-concessions-from-google-antitrust-probe.html)

134

135 (on Monopoly/Antitrust in EU)

136

137 Google Faces Renewed Focus by EU in Antitrust Case (eWEEK):

138

139 [http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-](http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-antitrust-case.html)
140 [antitrust-case.html](http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-antitrust-case.html)

141

142 Earlier in July, online restaurant and business review service Yelp joined the list of
143 settlement critics and entered its own objections to the settlement proposal as it
144 stands, according to a recent eWEEK report. - See more at:

145 [http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-](http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-antitrust-case.html#sthash.uh1F26Nz.dpuf)
146 [antitrust-case.html#sthash.uh1F26Nz.dpuf](http://www.eweek.com/enterprise-apps/google-faces-renewed-focus-by-eu-in-antitrust-case.html#sthash.uh1F26Nz.dpuf)

147

148 (on yelp/Monopoly/Antitrust in EU)

149

150 Yelp Throws Spanner Into Google EU Antitrust Settlement By Filing Formal
151 Complaint (techcrunch):

152

153 ...

154

155 “I realized Yelp’s current state as a mere witness within the DG-COMP
156 deliberations was inadequate,” writes Yelp CEO and co-founder Jeremy
157 Stoppelman. “In order to truly advocate on behalf of the European digital
158 startups, our voice needed to be granted some form of official standing. As such, I
159 have directed our government affairs team to convert Yelp into an official
160 complainant.”

161

162 This means Yelp joins other tech companies like Microsoft, as well as the
163 consumer rights advocate the European Consumer Organisation, in a long list of
164 complainants who believe Google is acting in anticompetitive ways in Europe — in
165 Yelp’s case, because of the way Google gives priority to its own services in search
166 results over those of competitors. Specifically, local search results, such as those
167 relating to nearby restaurants.

168

169 “I truly fear the landscape for innovation in Europe is infertile, and this is a direct
170 result of the abuses Google has undertaken with its dominant position,” adds
171 Stoppelman.

172

173 ...

174

175 <http://techcrunch.com/2014/07/09/yelp-versus-google/>

176

177 (on yelp/Monopoly/Antitrust in EU)

178

179 Yelp Joins Critics of European Union Antitrust Settlement With Google (New York
180 Times):

181

182 [http://www.nytimes.com/2014/07/09/technology/yelp-joins-critics-of-european-](http://www.nytimes.com/2014/07/09/technology/yelp-joins-critics-of-european-union-settlement-with-google.html?_r=0)
183 [union-settlement-with-google.html?_r=0](http://www.nytimes.com/2014/07/09/technology/yelp-joins-critics-of-european-union-settlement-with-google.html?_r=0)

184

185 ...

186

187 BRUSSELS — Yelp, the online service increasingly popular on both sides of the
188 Atlantic, has joined the critics formally opposing the European Union’s proposed
189 antitrust settlement with Google.

190

191 Yelp, which helps consumers find and review restaurants, shops, plumbers and all
192 sorts of other local services, said in its filing in the long-running European
193 antitrust case that the results on Google’s search engine favor Google Plus Local,
194 a direct Yelp competitor.

195

196 ...

197

198 (on yelp, Monopoly/Antitrust in EU)

199

200 Google Spent 25 million lobbying Washington during the course of the FTC probe,
201 and it worked (TNW):

202

203 ...

204

205 What is stunning about the Google case is how cheap influence is in Washington,
206 something that TNW has touched on before. Google, a company with cash and
207 equivalents of roughly \$50 billion, had to spend just 0.05% of its ready currency to
208 fend of what could have been a nearly existential threat to parts of its core
209 business.

210

211 ...

212

213 [http://thenextweb.com/google/2013/01/04/google-spend-25-million-lobbying-](http://thenextweb.com/google/2013/01/04/google-spend-25-million-lobbying-during-the-course-of-the-ftc-probe-and-it-worked/)
214 [during-the-course-of-the-ftc-probe-and-it-worked/](http://thenextweb.com/google/2013/01/04/google-spend-25-million-lobbying-during-the-course-of-the-ftc-probe-and-it-worked/)

215

216 (on Google Lobbying)

217

218 Google, once disdainful of lobbying, now a master of Washington influence
219 (Washington Post):

220

221 ...

222

223 The rise of Google as a top-tier Washington player fully captures the arc of change
224 in the influence business.

225

226 Nine years ago, the company opened a one-man lobbying shop, disdainful of the
227 capital's pay-to-play culture.

228

229 Since then, Google has soared to near the top of the city's lobbying ranks, placing
230 second only to General Electric in corporate lobbying expenditures in 2012 and
231 fifth place in 2013.

232

233 ...

234

235 [http://www.washingtonpost.com/politics/how-google-is-transforming-power-](http://www.washingtonpost.com/politics/how-google-is-transforming-power-and-politicsgoogle-once-disdainful-of-lobbying-now-a-master-of-washington-influence/2014/04/12/51648b92-b4d3-11e3-8cb6-284052554d74_story.html)
236 [and-politicsgoogle-once-disdainful-of-lobbying-now-a-master-of-washington-](http://www.washingtonpost.com/politics/google-once-disdainful-of-lobbying-now-a-master-of-washington-influence/2014/04/12/51648b92-b4d3-11e3-8cb6-284052554d74_story.html)
237 [influence/2014/04/12/51648b92-b4d3-11e3-8cb6-284052554d74_story.html](http://www.washingtonpost.com/politics/google-once-disdainful-of-lobbying-now-a-master-of-washington-influence/2014/04/12/51648b92-b4d3-11e3-8cb6-284052554d74_story.html)

238

239 (on Lobbying)

240

241 Microsoft touts eye-tracking study as proof of Google's EU antitrust naughtiness
242 (GIGAOM):

243

244 [http://gigaom.com/2013/12/12/microsoft-touts-eye-tracking-study-as-proof-of-](http://gigaom.com/2013/12/12/microsoft-touts-eye-tracking-study-as-proof-of-googles-eu-antitrust-naughtiness/)
245 [googles-eu-antitrust-naughtiness/](http://gigaom.com/2013/12/12/microsoft-touts-eye-tracking-study-as-proof-of-googles-eu-antitrust-naughtiness/)

246

247 ...

248

249 This time round, the Initiative for a Competitive Online Marketplace (ICOMP) –
250 one of Microsoft’s astroturfing operations – has commissioned an eye-tracking
251 study to demonstrate how Google’s latest suite of settlement proposals “actually
252 makes the abuse worse.”

253 ...

254

255 (on Monopoly/Antitrust)

256

257 Pornography (and what is not) on Wikipedia:

258

259 ...

260

261 In the U.S., a July 2014 criminal case decision in Massachusetts
262 (COMMONWEALTH v. John REX.)[57] made a legal determination of what was not
263 to be considered "pornography" and in this particular case "child
264 pornography".[58] It was determined that photographs of naked children that
265 were from sources such as National Geographic magazine, a sociology textbook,
266 and a nudist catalog were not considered pornography in Massachusetts even
267 while in the possession of a convicted and (at the time) incarcerated sex
268 offender.[58]

269

270 ...

271

272 http://en.wikipedia.org/wiki/Pornography#What_is_not_pornography

273

274 (on Pornography/What It Is Not)

275

276 —compiled by Dr. S Louis Martin

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF SAN FRANCISCO**

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12 S. LOUIS MARTIN,) Case Number CGC-14-53997
13 Plaintiff)
14 V) INTRODUCTION SUPPLEMENT TO
15 GOOGLE, INC.		) RUBUTTAL RESPONSE TO
16 Defendant		) DEMURRER
17)
18		) 10 October 2014
19 _____)

23 **Introduction to What Is Google?**

24

25 Defendant Google continues to file boiler-plate types of responses, citing
26 inappropriate legal precedents such as Milkovich v Lorain Journal, Langdon v
27 Google, Search King v Google Tech, and Zhang v Baidu. This case is not about
28 expanded free speech of the press. It is not about AdWords suppression, which
29 Langon v Google concerns. Search King v. Google is about competing search
30 companies, also not of concern here. And Zhang v Baidu is about suppression of
31 pro-democracy propaganda, also quite irrelevant to this case.

32

33 Running throughout every Google document filed is the notion, repeated over
34 and over again, that Google is a publisher and has "opinions" and "editorial
35 judgments." This is the self-proclaimed Emperor Norton or the King's New Clothes
36 on display; humorous, perhaps, but not appropriate in a court of law. As we
37 showed in the previous document (THE CASE FOR CONTINUING THE CASE
38 AGAINST GOOGLE—AND REJECTING ITS DEMURRER REQUEST), no one considers
39 Google a publisher other than Google. Standard use of the English language, as
40 amply discussed in the cited document, does not allow Google to cast itself as a
41 publisher. Google's search algorithm does not think as sentient human publishers
42 do, and it certainly does not have opinions; it can, however, program bias into
43 search results. While precedent may be useful, common sense, logic, and
44 standard use of English-language words must prevail for this case to have
45 meaning.

46

47 (Google also needs to quite talking about the Communications Decency Act. It is a
48 non-issue—never has been—as the ad code in the nudist colony story was
49 removed per Google's request.)

50

51 But an important question does remain: just what is Google? The next document,
52 What Is Google?, will show that Google is an advertising broker, which is how it
53 makes money, and not its free search engine, which is heavily biased in favor of
54 Google properties and AdWords customers. It is the means by which ad-broker
55 Google has gotten extremely rich at the expense of honest news organizations
56 and publishers, causing the near collapse of a once great industry.

57

58

59 By Dr. S. Louis Martin

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 8 **COUNTY OF SAN FRANCISCO**

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 12 S. LOUIS MARTIN,) Case Number CGC-14-53997
 13 Plaintiff)
 14 V) SUPPLEMENT TO
 15 GOOGLE, INC.) REBUTTAL RESPONSE
 16 Defendant)
 17) 10 October 2014
 18 _____)

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 20
 21
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23 **What Is Google?**

24

25

26 What is Google? The question seems to boggle the mind. Most people don't give
27 it much thought—we are in an age of abundant information and scant thought—
28 but when a person does, he or she is usually baffled. While impressions abound,
29 clarity does not. And that is probably the way Google wants it.

30

31 Google itself claims to be a number of things. To claim First Amendment rights for
32 legal purposes, it claims it is a publisher, though no one buys this. Also for legal
33 purposes, it claims to be an "internet service provider"; under that guise it
34 censors others by invoking the Communications Decency Act. That is a bit of a
35 curiosity, however, considering that Google operates the world's biggest
36 pornography site (go to images.google.com or videos.google.com and type in
37 "young naked girls"). Does it claim to be a pornographer? No, but it might make a
38 good case for it. You might also get the impression that Google, with its self-
39 driving cars, is an automobile manufacturer. That is a fanciful stretch that few,
40 including the major automotive manufacturers, take seriously. And of course with
41 Google Glass—Google teams up with the Italian monopoly eyewear company
42 Luxottica for this one—you might think Google was a trend-setting fashion
43 company.

44

45 Feel confused? So do I. Let us take a look at reality which, in the business world,
46 almost always hangs out with the money.

47

48 In 2013, 85 percent of Google's revenues came from advertising. Google buys
49 advertising space from publishers and sells it to those who want to advertise their
50 goods or services. Guess what that makes Google? Without any doubt, Google is

51 an advertising broker*. Feel let down? Were you hoping for something more
52 exotic? Were you hoping the little self-driving cars were the magic money maker?
53 Or perhaps Google Glass? Forget it. They're the hobbies of rich and famous
54 techies. But there is an exotic twist, so hang on.

55

56 If Google were just an ad broker, there would be no problem; we wouldn't even
57 be having this discussion. It would have to compete fairly for sales with other
58 brokers, which is hard work; and that would be the end of the story. But broker
59 Google has the distinction of owning the monopoly search engine on the Internet,
60 which makes it the de facto gatekeeper to the World Wide Web, and thus Google
61 controls visibility on the Internet. This is virtually life and death in cyberspace for
62 those with websites who do business there. Google can make competitors
63 invisible to those seeking information on any topic. It can also favor its own
64 properties (websites) and advertising (AdWords) clients. In the digital age, you
65 can't ask for more power than this, other than nuclear bombs. Used wisely, it
66 might be okay. Given a Federal Trade Commission that did its job**, you might
67 ensure fair play; and antitrust violations, though tempting, might be minimal.
68 Given an environment of corporate greed and lax enforcement, you get the
69 expected result: pain and suffering, if not death, to competition; consumers that
70 are fed lies and half truths with paid-for search results; and youth that is
71 presented a warped version of reality that borders on a public mental-health
72 nuisance. The situation is comparable to a completely unregulated stock market
73 with a single broker given absolute authority. You know who is going to get rich
74 fast. And that is the story of Google. While appearing to the public like a "cool"
75 visionary on a mission, especially to the young and naive, Google is anything but
76 that to those who have been made invisible, the "disappeared." For them, Google
77 is a big-bellied monster that eats the little guy.

78

79 Of course Google is other things: a master thief of content, a peeping Tom into all
80 things private, a censor that would make Orwell's Big Brother sick with jealousy,

81 and a policy tyrant without equal. But here we are concerned only with Google's
82 antitrust abuse. Other charges can be filed at a later time.

83

84 *Google is also a very expensive broker. Its stated fee is 32 percent, over six times
85 a normal brokerage fee. However, there are some that think it has been much
86 higher in the past, perhaps as high as 99.6 percent. Until just recently, Google has
87 refused to state the fee. Whatever the actual fee is, it is unconscionable and
88 anticompetitive.

89

90 **The FTC, after 19 months of "studying" the issue of Google search bias,
91 concluded what any intelligent twelve-year old could conclude in 20 minutes: that
92 Google search results are biased. But it chose not to punish Google on the
93 grounds that it did not harm the consumer. That is equivalent to a court of law
94 saying that lying witnesses do no harm in the court room. It is a preposterous and
95 illogical conclusion obtained via a 24-million dollar lobbying campaign by Google.

96

97

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8 **COUNTY OF SAN FRANCISCO**

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12 S. LOUIS MARTIN,) Case Number CGC-14-53997
13 Plaintiff)
14 V) SUPPLEMENT:
15 GOOGLE, INC.) SHIFTING SEARCH SCENARIOS,
16 Defendant		) EXTREME BIAS
)
		) 22 October 2014
19 _____)

23 **Supplement: Shifting Search Scenarios, Extreme Bias**

24

25 Note: This is a supplement to the complaint: "The Case Against Google." It is
26 intended to enhance understanding of the case.

27

28

29 *Shifting Search Scenarios*

30

31 There has been a significant shift in search scenarios that relates to the
32 understanding of this case. Consider three search situations:

33

34 1. Google returns the URL of a Google AdWords customer or a Google property.

35

36 2. Google returns the URL of a publisher with an ad for an AdWords customer on
37 the publisher's page. (The publisher is a Google AdSense "partner.")

38

39 3. Google returns the URL for a page with no AdSense ad and the owner of the
40 page is not an AdWords customer or a Google property.

41

42 Here are the economic implications of these three scenarios.

43

44 **Case #1**

45

46 In Case #1, if Google places the URL on the first page of returned results and close
47 to the top, it is very likely to get clicked on immediately. This means that Google
48 will get paid 100 % of the price paid by the AdWords customer for the click, say 5
49 to 7 USD for a restaurant or a hotel ad. (Google will not get just 32% of the price if
50 the click were on an ad placed on a bone fide publisher's page, as described in
51 Case #2 below.) In short, Google will make a whole lot of money very fast.

52

53 Case #2

54

55 Now consider Case #2, where an ad is placed on a publisher's page. First, the ad
56 will be clicked on only about 2 to 3 times out of 1000 returns of the page as a
57 search result. That is because users don't trust ads for information. No surprise
58 there! So the page will have to be presented many times before a user clicks. But
59 then when a user does click on the page, Google will get only 32% of the money
60 paid by the AdWords customer for the click (68% goes to the publisher). So what
61 one sees is very few clicks and far less money per click for Google. Case #1 is going
62 to make lots of money fast for Google; Case #2, which honors the honest, old-
63 fashioned advertising model, will make very little.

64

65 Case #3

66

67 In Case #3, Google of course makes no money at all. Thus Google has no incentive
68 to return such a URL, no matter how good it is. Also, returning such a URL will get
69 in the way of money-making URLs, reducing Google's revenue. The higher up the
70 URL in the search results, the worse the situation is for Google's revenues.

71

72 And note that in the honest, old-fashioned advertising model of Case #2, such a
73 URL also gets in the way of high-revenue-generating URLs of Case #1. Thus it is

74 much to the advantage of Google to push Case #2 and Case #3 URLs as far out of
75 the way as possible. That is in fact what has been going on for some time now.

76

77 Note that Case #1 URLs are rarely marked as ads anymore; hence they are biased
78 (paid-for) search results that are also deceptive; Case #2 results may be unbiased
79 (honest) search results if they are not artificially promoted over better results.
80 Case #3 results are of course honest or unbiased results. But note that there is
81 strong motivation to promote Case #1 URLs, as they are far more lucrative for
82 Google. And that is the pattern that is seen these days: Top search results now
83 consist almost exclusively of Case #1 URLs regardless of their merit. (Case #1 URLs
84 for Google properties are a slightly different story. For a Google-owned property
85 like Zagat, what you see is heavy promotion of page sponsorship on the returned
86 page. In other words, if you want to get a high-page ranking on the Google
87 property, you also have to pay. But keep in mind that until Google owns
88 everything, the large majority of Case #1 URLs are AdWords customers.)

89

90 The next section discusses just how biased Google's search results are.

91

92 The relevance to this complaint is obvious: CoastNews represented a high-rated,
93 unbiased Case #2 URL that got in the way of Google's high-revenue-generating
94 scenario. When analyzed and understood in this way, it is clear that Google's URL
95 placement scenario is really a deceptive scheme that harms both consumers and
96 competitors.

97

98 *Extreme Bias*

99

100 As mentioned above, Google makes huge amounts of money by returning search
101 results that are biased in favor of its AdWords customers or own properties. The

102 question then arises: What percent of search results returned are biased (paid
103 for) versus honest (unbiased) ones? Note that when Google began, most, if not
104 all, returned results were honest; but clearly that has changed significantly over
105 time.

106

107 In a Business Insider article called "Here's The Evidence That Google's Search
108 Results Are Horribly Biased,"

109

110 ([http://www.businessinsider.com/evidence-that-google-search-results-are-
111 biased-2014-10#ixzz3GSHjHXc](http://www.businessinsider.com/evidence-that-google-search-results-are-biased-2014-10#ixzz3GSHjHXc))

112

113 Jim Edwards describes a piece of software (Chrome extension) developed by yelp
114 and others that shows just how biased Google searches are. The title of the article
115 says it all: "horribly."

116

117 The software removes preference for Google+ results from Google searches,
118 showing what the honest (unbiased) results would be. In one case with the
119 extension enabled, a search on "hotels Balboa Spain" returned 2081 reviews.
120 With it disabled (normal biased Google search), only 137 results are returned. I.e.,
121 Google returns only 6.58 percent of the results that it might in a fair search. (See
122 Focus On The User at <http://focusontheuser.eu/#introduction>.)

123

124 Let us now be specific to the complaint of CoastNews against Google (S. Louis
125 Martin v Google Inc.). For a search on "San Francisco restaurant guide North
126 Beach", the top 10 search results returned by Google are all AdWords customers
127 or Google properties, other than one—yelp. In an FTC settlement with Google in
128 2013, Google agreed to be fairer to competitors such as yelp. It appears in the
129 search described above, yelp is Google's token example of fairness. And among

130 the returned results, one is not a guide at all but a restaurant. Moreover, that
131 restaurant is rated as *** (mediocre) on the second listing, which is
132 menupages.com. How much sense does that make? How much "editorial
133 judgment" does that show? CoastNews's restaurant page is of course missing,
134 though it is the only page that has photographs of all restaurants; lengthy
135 descriptions, often including interviews with owners; and no reviews written on
136 hand-held devices by semi-literate Millennials inebriated on a date, stating
137 something like "Hey, dude, this place sucks!" or "Hey, dude, this place is f***ing
138 awesome."

139

140 On Media Post, see "Tool Claims To Show Google Search Bias":

141

142 [http://www.mediapost.com/publications/article/235369/yelp-demonstrates-](http://www.mediapost.com/publications/article/235369/yelp-demonstrates-googles-search-bias.html)
143 [googles-search-bias.html](http://www.mediapost.com/publications/article/235369/yelp-demonstrates-googles-search-bias.html)

144

145 On the Wall Street Journal, see "Ads Tied to Web Searches Criticized as
146 Deceptive":

147

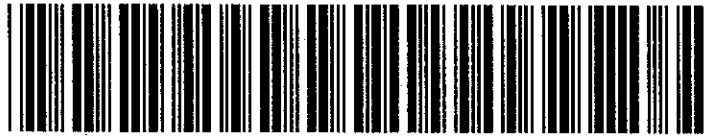
148 [http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-](http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-1413226602)
149 [1413226602](http://online.wsj.com/articles/ads-tied-to-web-searches-criticized-as-deceptive-1413226602)

150

151 We rest our case that there is a big problem in the world of Google search caused
152 by "bias," with the result that consumers are often badly misled and competition
153 is either crippled or completely eliminated.

154

155 By Dr. S. Louis Martin



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Nov-13-2014 4:31 pm

Case Number: CGC-14-539972

Filing Date: Nov-13-2014 4:30

Filed by: SEAN KANE

Juke Box: 001 Image: 04689773

ORDER

S. LOUIS MARTIN VS. GOOGLE, INC

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SCOTT A. SHER, State Bar No. 190053
DAVID H. REICHENBERG (*admitted pro hac vice*)
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 493-6811
Email: ssher@wsgr.com

Attorneys for Defendant
GOOGLE INC.

F I L E D
Superior Court of California
County of San Francisco

NOV 13 2014

CLERK OF THE COURT

BY: *[Signature]*
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

S. LOUIS MARTIN,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

) Case No. CGC-14-539972
)
)

) **[PROPOSED] ORDER**
) **GRANTING DEFENDANT**
) **GOOGLE INC. TO STRIKE**
) **PLAINTIFF'S COMPLAINT**
) **PURSUANT TO CIV. PROC.**
) **CODE § 425.16**

) Date: November 13, 2014
) Time: 9:30 AM
) Dept: 302
) Reservation No.: 081114-12

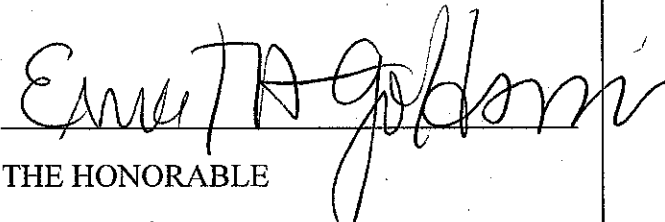
) Complaint Filed: June 17, 2014
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On November 13, 2014, Defendant Google Inc.'s Special Motion to Strike to Plaintiff's Complaint came for hearing. Defendant has met its burden of showing that the claims asserted against it arise from constitutionally protected activity, thereby shifting the burden to Plaintiff to demonstrate a probability of prevailing on the merits of the Complaint. Plaintiff has failed to file an opposition to Defendant's Motion, and has produced no evidence supporting a probability of success. The Plaintiff's complaint shall be stricken without leave to amend.

IT IS SO ORDERED.

Dated: NOV 13 2014


THE HONORABLE
ERNEST ~~A~~ GOLDSMITH
San Francisco Superior Court

1 SCOTT A. SHER, State Bar No. 190053
2 DAVID H. REICHENBERG (*admitted pro hac vice*)
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*Superior Court of California,
County of San Francisco*
NOV 19 2014
Clerk of the Court
BY: ROMY RISK
Deputy Clerk

6 Attorneys for Defendant
7 GOOGLE INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10 S. LOUIS MARTIN,
11
12 Plaintiff,

13 v.

14 GOOGLE INC.,
15 Defendant.

) CASE NO.: CGC-14-539972
)
) **NOTICE OF ENTRY OF**
) **JUDGMENT**

) Complaint Filed: June 17, 2014
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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on November 13, 2014, the Court granted Defendant
3 Google Inc.'s Special Motion to Strike Plaintiff's Complaint Pursuant to Cal. Civ. Proc. Code §
4 425.16. The Court's judgment is attached hereto as Exhibit A.

5

6 DATED: November 19, 2014

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

7

8

By: /s/ David H. Reichenberg
David H. Reichenberg

9

10

Attorney for Defendant Google Inc.

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EXHIBIT A

1 SCOTT A. SHER, State Bar No. 190053
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10 Attorneys for Defendant
 11 GOOGLE INC.

**ENDORSED
 FILED**
 Superior Court of California
 County of San Francisco

NOV 13 2014

CLERK OF THE COURT
 BY: SEAN KANE
 Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF SAN FRANCISCO

10 S. LOUIS MARTIN,
 11 Plaintiff,
 12 v.
 13 GOOGLE INC.,
 14 Defendant.

) Case No. CGC-14-539972
)
) **[PROPOSED] ORDER**
) **GRANTING DEFENDANT**
) **GOOGLE INC. TO STRIKE**
) **PLAINTIFF'S COMPLAINT**
) **PURSUANT TO CIV. PROC.**
) **CODE § 425.16**
)
) Date: November 13, 2014
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) Complaint Filed: June 17, 2014
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IT IS SO ORDERED.

ERNEST H. GOLDSMITH

Dated: NOV 13 2014

THE HONORABLE
ERNEST L. GOLDSMITH
San Francisco Superior Court

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28**PROOF OF SERVICE***S. Louis Martin v. Google Inc.***San Francisco County Superior Court Case No. CGC-14-539972**

I, Lori Low, declare:

I am employed in the County of Santa Clara, State of California. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, PC, 650 Page Mill Road, Palo Alto, California 94304.

On this date, I caused to be personally served

NOTICE OF ENTRY OF JUDGMENT

- By forwarding the document(s) to Nationwide Legal Service, which dispatched a messenger to hand deliver the documents to the following parties:

S. Louis Martin
588 Sutter Street, #105
San Francisco, CA 94102

Plaintiff

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of documents for delivery according to instructions indicated above. In the ordinary course of business, documents would be handled accordingly.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on November 19, 2014.



Lori Low

1 S. Louis Martin
2 588 Sutter Street, No. 105
3 San Francisco, CA 94102
4 Telephone: 415-871-6803
5 Email: s.louis.martin@gmail.com

6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**

9

10 S. LOUIS MARTIN, > Case No. CGC-14-539972
11 Plaintiff
12 V > **MOTION TO VACATE STRIKE**
13 GOOGLE, INC. > **ORDER of 13 NOVEMBER**
14 Defendant > **2014 IN CASE 539972,**
15 > **S. LOUIS MARTIN V**
16 > **GOOGLE, INC.**
17
18 > 10 December 2014

19 **Hearing Reservation Number: 121014-01**

20 **Department: 302**

21 **Date: 3 February 2015**

22 **Time: 9:30 AM**

23 **MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014 IN CASE 539972, S.**
24 **LOUIS MARTIN V GOOGLE, INC.**

25 The strike order of 13 November 2014 MUST be vacated because the judge's
26 statement that "the Plaintiff has failed to file an opposition to Defendant's
27 motion, and has produced no evidence supporting a probability of success" is
28 blatantly false.

29 Defendant S. Louis Martin filed multiple documents in opposition to the
30 defendant's motion, which is easily provable from the Register of Actions; the
31 plaintiff also had a high probability of prevailing in the case had it not been so
32 hastily terminated (in fact, with no discussion of the case whatsoever). He had the
33 support and backing of ethics scholars, industry experts, and almost every
34 industry leader other than the defendant!

35 As to Google's claim of "constitutionally protected rights" (as a "publisher"), this
36 was thoroughly rebutted in the documents. No one considers Google a publisher
37 other than Google; it has taken on this title to suppress genuine publishers'
38 constitutional rights and engage in anticompetitive behavior, both harmful to
39 consumers and competitors.

40 Moreover, the judge was well aware of the filing of these documents by S. Louis
41 Martin, as was the clerk of the court. Therefore this strike order constitutes an act
42 of perjury and malfeasance on the part of the judge, more than likely politically
43 motivated.

44 Finally, the other two parts of the complaint, (2) Deceptive Business Practices and
45 (3) Destruction of Business Property, were totally ignored both by judge and
46 defendant. Neither was rendered moot by any opinion regarding (1) antitrust
47 violations.

48 S. Louis Martin demands the immediate vacating of this order, which is a
49 nefarious attack on honest business owners and unsuspecting consumers.

50 By /s/ S. Louis Martin

51 Pro se representative for Plaintiff

52 S. Louis Martin

53 10 December 2014

54 **Hearing Reservation Number: 121014-01**

55 **Hearing Department: 302**

56 **Hearing Date: 3 February 2015**

57 **Hearing Time: 9:30 AM**

1 S. Louis Martin
2 588 Sutter Street, No. 105
3 San Francisco, CA 94102
4 Telephone: 415-871-6803
5 Email: s.louis.martin@gmail.com

6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**

9

10 S. LOUIS MARTIN, > Case No. CGC-14-539972
11 Plaintiff
12 V > **Attachment to Case**
13 GOOGLE, INC. > **Management Statement**
14 Defendant > **for Case CGC-14-539972**
15 > **(S. LOUIS MARTIN V**
16 > **GOOGLE, INC.),**
17 > **for 31 December 2014**
18 > **Meeting**
19
20 > 22 December 2014

21

22

23 **Attachment to Case Management Statement for Case**
24 **CGC-14-539972 (S. LOUIS MARTIN V GOOGLE, INC.),**
25 **for 31 December 2014 Meeting**

26

27 The judge and the court have shown extreme bias in this
28 case.

29 The judge's statement in his 13 November 2014 strike
30 order that "the Plaintiff has failed to file an
31 opposition to Defendant's motion, and has produced no
32 evidence supporting a probability of success" is
33 blatantly false. The plaintiff filed multiple documents
34 refuting Google's Answer to the Complaint. The *Register*
35 *of Actions* clearly shows this.

36 The judge also failed to ask a single question of the
37 Plaintiff at the one and only hearing on 13 November
38 2014. That is highly abnormal and indicative of bias.
39 The only question asked was if Google wanted the case
40 struck. Google answered in the affirmative and a deal
41 was done. Is this not at the minimum tacit collusion
42 between the judge and Google?

43 Moreover, while all Google's filings were made public,
44 only two out of seven were for Plaintiff S. Louis
45 Martin. Filings from 12 September 2014 on are still not
46 publically viewable, and repeated calls to the court
47 have failed to rectify the matter or produce an
48 explanation. Is this fair treatment?

49 Note also that not one call to the court has ever been
50 returned. I do believe that if I had called and said I
51 was the attorney for Google, the calls would have been
52 returned. In desperation before the 13 November 2014
53 hearing, I double-filed all documents in the hope that

54 they would be made available to the public. They had
55 the same fate as the original documents. All were
56 unviewable. (They show up in the Register of Actions as
57 filed but cannot be viewed.)

58 There is another disadvantage that the Plaintiff has
59 suffered in this case: Not one attorney was willing to
60 take the case. The reason? Not the merits of the case.
61 It appears that no attorney in the San Francisco Bay
62 Area believes the case is winnable, given the politics
63 and money involved. The court will simply side with
64 Google no matter what the merits of the case are. I
65 sought assistance of the Bar Association of San
66 Francisco lawyer referral service. I made calls on my
67 own to legal firms specializing in antitrust law. No
68 one was interested in going up against Google and the
69 Superior court in San Francisco.

70 The fact is, this is a case involving politics and
71 money; any judge who sides against Google is going to
72 be in big trouble, and any lawyer who challenges that
73 judge's honesty is going to be in trouble with that
74 judge. It is the age-old story of corruption in the
75 form of tacit collusion.

76 As the case now stands, it is these conditions, not the
77 merits of the case, that make it nearly impossible to
78 win.

79 But that is not quite the end of the problem. While
80 perjury is a crime, so is computer hacking. And that is
81 the way it is looking. This is still under
82 investigation -- and can be hard to prove, as the
83 recent Sony hacking case reveals -- but it appears that
84 Google has repeatedly hacked my computer. On 12
85 December 2014 there were 43 TCP/IP simultaneous
86 connections to my computer that traced back to Google.

87 Email blocking is being investigated as well. (This is
88 backed by **netstat** reports.) And tracking software now
89 shows that few Google-related emails get delivered.

90 The motivation for hacking is there, because if this
91 case were to prevail, then others could sue for the
92 same reason, and Google' well-documented monopolistic
93 abuse of power would end. It would no longer be able to
94 disappear competitors. Advertising is how Google makes
95 its money, not with self-driving cars or designer
96 Google Glasses. Google is not a publisher, as it
97 claims, but rather an advertising broker and a very
98 dishonest one, returning mostly unmarked advertisements
99 as search results. This is hugely profitable if you can
100 get away with it, which Google has to date; and it also
101 harms the consumer, as it is deceptive. Only two or
102 three users out of 1000 will click on an ad if they
103 know it is an ad.

104 All of the above needs serious discussion before the
105 hearing of 3 February 2015 for the Motion to Vacate the
106 strike order of 13 November 2014.

107

108 By /s/ S. Louis Martin

109 Pro se representative for Plaintiff

110 S. Louis Martin

111 22 December 2014

1 S. Louis Martin
2 588 Sutter Street, No. 105, San Francisco, CA 94102
3 Telephone: 415-871-6803
4 Email: s.louis.martin@gmail.com
5

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF SAN FRANCISCO**
8

9 S. LOUIS MARTIN, > Case No. CGC-14-539972
10 Plaintiff
11 V > **REQUEST FOR CONTINUANCE**
12 GOOGLE, INC. > **OF 3 FEBRUARY 2015 HEAR-**
13 Defendant > **ING IN CASE 539972,**
14 > **S. LOUIS MARTIN V**
15 > **GOOGLE, INC.**
16
17 > 27 January 2015

18 **ORIGINAL HEARING SCHEDULED AS FOLLOW:**

19 **Hearing Reservation Number: 121014-01**

20 **Department: 302**

21 **Date: 3 February 2015**

22 **Time: 9:30 AM**

23 **This is a Request for continuance of the hearing set for 3 February 2015 in Case**
24 **S. LOUIS MARTIN V GOOGLE, INC. (Case CGC-14-539972).**

25 The request for continuance is being made in order to allow time for the
26 **Commission on Judicial Performance** to investigate allegations of perjury and
27 malfeasance on the part of Judge Ernest Goldsmith in this case; it is also being
28 requested to allow time for the federal **Internet Crime Complaint Center** (IC3.org)
29 to investigate allegations of (1) computer hacking, (2) email blocking, and (3)
30 blocking public viewing of all court-related documents on CoastNews.com by
31 Defendant Google; finally, it is being requested so the court can make viewable
32 all documents filed by the Plaintiff, S. LOUIS MARTIN. **This hearing simply makes**
33 **no sense until investigations are completed and the Plaintiff's filings have been**
34 **made viewable, as are GOOGLE'S.**

35 By /s/ S. Louis Martin

36 Pro se representative for Plaintiff

37 S. Louis Martin

38 27 January 2015

39

40 **ORIGINAL HEARING SCHEDULED AS FOLLOW:**

41 **Hearing Reservation Number: 121014-01**

42 **Hearing Department: 302**

43 **Hearing Date: 3 February 2015**

44 **Hearing Time: 9:30 AM**

LAW AND MOTION, 302, PLAINTIFF S. LOUIS MARTIN'S MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014 IN CASE 539972, S. LOUIS MARTIN V GOOGLE, INC. IS DENIED. THE COURT DENIES PLAINTIFF'S CONTINUANCE REQUEST. ORDER SIGNED IN OPEN COURT. (SEE ORDER FOR COMPLETE RULING.) JUDGE: ERNEST H. GOLDSMITH; CLERK: SEAN KANE; REPORTER: MELANIE DAWN GHENO, CSR #7489 (302/EHG)

1 S. Louis Martin
2 588 Sutter Street, No. 105
3 San Francisco, CA 94102
4 Telephone: 415-871-6803
5 Email: slouismartin@outlook.com

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FILED
Superior Court of California,
County of San Francisco
APR 01 2015
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BY: KEITH TOM
Deputy Clerk

6
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**

9
10 S. LOUIS MARTIN, > Case No. CGC-14-539972
11 Plaintiff
12 V > **Google Hacking Attacks**
13 GOOGLE, INC. > **Attachment #2 to**
14 Defendant > **Case Management**
15 > **Statement**
16 > **for Case CGC-14-539972**
17 > **(S. LOUIS MARTIN V**
18 > **GOOGLE, INC.),**
19 > **for 22 April 2015**
20 > **Meeting**
21
22 > 31 March 2015

23 **Google Hacking Attacks—Attachment #2 to Case**
24 **Management Statement for Case CGC-14-539972 (S.**
25 **LOUIS MARTIN V GOOGLE, INC.), for 22 April 2015**
26 **Meeting**

27

28

29 According to RFC 7258 of the Internet Engineering Task
30 Force (IETF):

31

32 "Pervasive monitoring is an attack."

33

34 While this is meant to be applied to the Design Level
35 of Internet hardware and software, it is ironical that
36 it is not applied by Google at the Macro level of
37 Application Development of its Chrome browser. (The
38 situation is analogous to a robber carefully counting
39 the money stolen during a robbery and declaring himself
40 or herself an honest thief.) But the motivation is
41 clear enough. Google is in the business of collecting
42 and selling user data, and Google Chrome and Gmail are
43 the breaking and entry tools by which they do it.

44

45 While selling user data is a dubious practice, outright
46 hacking is a crime. S. LOUIS MARTIN is suing GOOGLE,
47 INC. in Superior Court in San Francisco (CGD-14-539972,
48 S. LOUIS MARTIN V GOOGLE, INC.). Thus hacking the
49 computer of S. LOUIS MARTIN is doubly dubious.
50 Nevertheless, this appears to be what has transpired
51 during the period of 2 November 2014 through 3 February
52 2015.

53

54 Note that monitoring/hacking appears to drop off
55 dramatically after the issue was raised in a 3 February
56 2015 court hearing.

57

58 netstat reports have been maintained by S. LOUIS MARTIN
59 from 2 November 2014 through 20 March 2015. A zip of
60 the reports can be obtained here:

61

62 www.coastnews.com/google/netstat/netstat.zip

63

64 They indicated a high level of TCP connectivity while
65 running the Chrome browser, with especially high levels
66 in these reports:

67

68 netstat-2014-11-18-n1 - 71 connections

69 netstat-2014-11-28-n1 - 88 connections

70 netstat-2014-12-03-n1 - 89 connections

71 netstat-2014-12-12-n1 - 60 connections

72 netstat-2015-01-10-n2 - 56 connections

73

74 netstat-2014-12-12-n1 is the most disturbing, showing
75 52 TCP connections to Martin's computer from Google
76 servers, not just to websites or ads. This is a large
77 number of connections that would normally require
78 explanation. However, according to RFC 7258, no
79 explanation is required. It is well known that these

80 types of connections are used for monitoring the client
81 (user Martin's computer in this case), and according
82 the ethos embodied in RFC 7258, they represent an
83 attack on the Plaintiffs Martin's computer.

84

85 Note that HTTP 1.1 was the rule of the road on the
86 Internet for TCP transmission during most of the time
87 period referenced via the netstat reports. HTTP2 has
88 just been adopted by IETF, but according to Wikipedia,

89

90 As of the January 2015 last call, the HTTP/2 protocol
91 is being criticized for not supporting opportunistic
92 encryption, a feature like STARTTLS that has long been
93 available in other internet protocols like SMTP. Poul-
94 Henning Kamp, lead developer of varnish HTTP
95 accelerator and a senior FreeBSD kernel developer, has
96 criticized IETF for following a particular political
97 agenda with HTTP/2.

98

99 States Kamp elsewhere:

100

101 The reason HTTP/2.0 does not improve privacy is that
102 the big corporate backers have built their business
103 model on top of the lack of privacy. They are very
104 upset about NSA spying on just about everybody in the
105 entire world, but they do not want to do anything that
106 prevents them from doing the same thing.

107

108 In the case of S. LOUIS MARTIN V GOOGLE, INC., note
109 also that high rates of data transfer have been

110 observed—up to 8 MB/sec—initiated by Google Chrome
111 while the browser is idle (not requesting a page). This
112 has frequently been observed using Microsoft's
113 Performance Monitor software (perform). Note also that,
114 as expected, the performance of Martin's computer was
115 severely degraded.

116

117 Martin is therefore asking the Internet Crime Complaint
118 Center (IC3.gov) to investigate this matter.

119

120 Note: Strong circumstantial evidence of email blocking
121 also exists, but that will be presented at a later
122 date, as proof is more difficult to obtain. It is well
123 known, however, that Google hacks email.

124

125 Sincerely,

126 Dr. S. Louis Martin

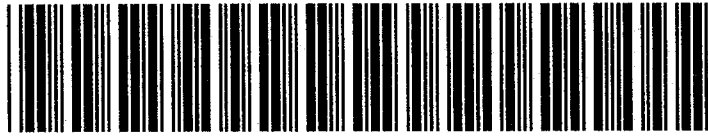
127

128 By /s/ S. Louis Martin

129 Pro se representative for Plaintiff

130 S. Louis Martin

131 31 March 2015



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Apr-21-2015 2:17 pm

Case Number: CGC-14-539972

Filing Date: Apr-21-2015 2:17

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JUDGMENT FOR DEFENDANT

S. LOUIS MARTIN VS. GOOGLE, INC

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1 SCOTT A. SHER, State Bar No. 190053
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11 Attorneys for Defendant
12 GOOGLE INC.

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Superior Court of California
County of San Francisco

APR 21 2015

CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 S. LOUIS MARTIN,
12 Plaintiff,

13 v.

14 GOOGLE INC.,
15 Defendant.

CASE NO.: CGC-14-539972

~~[PROPOSED] JUDGMENT OF DISMISSAL~~ *for*
Defendant Google Inc.

Complaint Filed: June 17, 2014

18 Pursuant to the Court's order filed November 13, 2014 granting Defendant's Motion to
19 Strike Plaintiff's Complaint Pursuant to Civ. Proc. Code § 425.16 without leave to amend:

20 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff shall take
21 nothing and that judgment is entered against Plaintiff *S. Louis Martin* and in favor of Defendant *Google Inc.* in the above-
22 referenced action.

23 **IT IS SO ORDERED.**

24 DATED: April 21, 2015
25 APR 21 2015

[Signature]

The Honorable Ernest H. Goldsmith
Judge of the Superior Court

26 **SEE EXHIBIT "A" RE**
27 **COMPLIANCE WITH CRC 3.1312**

rec'd

APR 14 2015

From: Tennis, Brad <btennis@wsgr.com>
Sent: Tuesday, April 14, 2015 11:07 AM
To: Contestdept302tr
Subject: CGC-14-539972: Proposed Judgment of Dismissal
Attachments: 2015-04-14 Proposed Judgment Cover Sheet.pdf; 2015-04-14 [PROPOSED] Final Judgment.pdf; 2015-04-14 [PROPOSED] Final Judgment.docx; 2015-04-14 Declaration of B Tennis.pdf

To whom it may concern:

Google submits the attached Proposed Judgment of Dismissal reflecting the following orders of the Court in case number 14-CGC-539972:

- November 13, 2014 order granting defendant Google Inc.'s special motion to strike and
- February 3, 2015 order denying plaintiff S. Louis Martin's motion to vacate the November 13 order

In accordance with CRC 3.1312, Google has attached both a PDF and word-processor editable version of the Proposed Judgment along with the electronic cover sheet and proof of service.

As stated in the attached declaration of Bradley T. Tennis, the Proposed Judgment was provided to Plaintiff S. Louis Martin via email on April 9, 2015 for approval pursuant to CRC 3.1312. Google has received no response from Plaintiff, and thus under CRC 3.1312(a) plaintiff is deemed to have approved the Proposed Judgment.

Sincerely,

BT

Bradley T. Tennis
Wilson Sonsini Goodrich & Rosati

650 Page Mill Road | Palo Alto, California 94304
Main: (650) 493-9300 | Direct: (650) 849-3056
Facsimile: (650) 493-6811 | Email: btennis@wsgr.com

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EXHIBIT "A"

1 SCOTT A. SHER, State Bar No. 190053
2 BRADLEY T. TENNIS, State Bar No. 281206
3 DAVID H. REICHENBERG (*admitted pro hac vice*)
4 WILSON SONSINI GOODRICH & ROSATI
5 Professional Corporation
6 650 Page Mill Road
7 Palo Alto, CA 94304-1050
8 Telephone: (650) 493-9300
9 Facsimile: (650) 493-6811
10 Email: ssher@wsgr.com

11 Attorneys for Defendant
12 GOOGLE INC.

ELECTRONICALLY
FILED

Superior Court of California,
County of San Francisco

APR 23 2015

Clerk of the Court
BY: MICHAEL RAYRAY
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO

10 S. LOUIS MARTIN,
11 Plaintiff,

12 v.

13 GOOGLE INC.,
14 Defendant.

) CASE NO.: CGC-14-539972

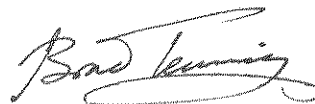
) **NOTICE OF ENTRY OF**
) **JUDGMENT FOR DEFENDANT**
) **GOOGLE INC.**

) Complaint Filed: June 17, 2014

17
18 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

19 PLEASE TAKE NOTICE that on April 21, 2015 the Honorable Judge Ernest H.
20 Goldsmith of Department 302 of the Superior Court of the State of California in the County of
21 San Francisco issued a Judgment for Defendant Google Inc. A true and correct copy of the
22 Judgment for Defendant Google Inc. is attached hereto as Exhibit A.

23
24 Respectfully submitted,

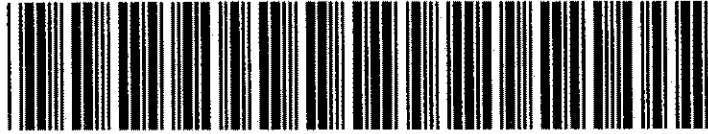
25 

26 Dated: April 23, 2015

27 By _____
Bradley T. Tennis

28 Attorney for Defendant
GOOGLE INC.

EXHIBIT A



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Apr-21-2015 2:17 pm

Case Number: CGC-14-539972

Filing Date: Apr-21-2015 2:17

Filed by: KAREN LIU

Juke Box: 001 Image: 04879052

JUDGMENT FOR DEFENDANT

S. LOUIS MARTIN VS. GOOGLE, INC

001C04879052

Instructions:

Please place this sheet on top of the document to be scanned.

APR 16 2015

1 SCOTT A. SHER, State Bar No. 190053
 2 BRADLEY T. TENNIS, State Bar No. 281206
 3 DAVID H. REICHENBERG (*admitted pro hac vice*)
 4 WILSON SONSINI GOODRICH & ROSATI
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 7 Palo Alto, CA 94304-1050
 8 Telephone: (650) 493-9300
 9 Facsimile: (650) 493-6811
 10 Email: ssher@wsgr.com

FILED
 Superior Court of California
 County of San Francisco

APR 21 2015

CLERK OF THE COURT
 BY: [Signature]
 Deputy Clerk

11 Attorneys for Defendant
 12 GOOGLE INC.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SAN FRANCISCO

11 S. LOUIS MARTIN,
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 14 GOOGLE INC.,
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[Signature]

The Honorable Ernest H. Goldsmith
 Judge of the Superior Court

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EXHIBIT "A"

1 S. Louis Martin
2 588 Sutter Street, No. 105
3 San Francisco, CA 94102
4 Telephone: 415-871-6803
5 Email: s.louis.martin@gmail.com

6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN FRANCISCO**

9

10 S. LOUIS MARTIN, > Case No. CGC-14-539972
11 Plaintiff
12 V > **MOTION TO VACATE JUDG-**
13 GOOGLE, INC. > **MENT of 21 APRIL**
14 Defendant > **2015 IN CASE 539972,**
15 > **S. LOUIS MARTIN V**
16 > **GOOGLE, INC.**
17
18 > 28 April 2015

19 **Hearing Reservation Number: 04280629-03**

20 **Department: 302**

21 **Date: 29 June 2015**

22 **Time: 9:30 AM**

23 **MOTION TO VACATE JUDGMENT OF 21 APRIL 2015 IN CASE CGC-14-539972,**
24 **S. LOUIS MARTIN V GOOGLE, INC.**

25

26 Shakespeare got it right in Hamlet:

27

28 *In the corrupted currents of this world*

29 *Offense's gilded hand may shove by justice,*

30 *And oft 'tis seen the wicked prize itself*

31 *Buys out the law; but tis not so above.*

32

33 This judgment should be vacated, but probably won't be, for the following
34 reasons:

35

36 1. Google's Declaration of Proposed Judgment was five months late in being filed;
37 and it was not properly served on the Plaintiff. According to CRC 3.1312(a), it
38 must be filed within five days of granting of the order, not five months! Also, no
39 third-party served the document electronically to the Plaintiff, and as the Plaintiff
40 was out of town, the paper service of the document did not reach him in time to
41 file objections within the required five days!

42

43 2. The Plaintiff's documents have not been made visible in the Register of Actions
44 and no explanation has *ever* been made for this. Law schools and news media
45 wanted access. These are public documents, and in a democratic system of
46 government as in the United State, suppression of public documents erodes the
47 democratic process.

48

49 3. Moreover, it appears that the judge in this case has never read the majority
50 (any?) of the filed documents by S. LOUIS MARTIN. How can a person make
51 judgments on matters that a person knows nothing about?

52

53 4. Huge bias has been shown throughout all proceedings. From suppression of
54 most of the Plaintiff's documents to extending deadlines for filing by Google, the
55 court has shown huge favoritism. As another example, Google filed its response
56 to the complaint 15 days late. The requirement is 30 days; Google filed in 45 days.
57 Was any such leeway granted the Plaintiff? Absolutely not! With a pending
58 investigation of the judge for perjury and an investigation of Google for hacking
59 the Plaintiff's computer (now proven), not one extra day has been allowed.

60

61 5. Perhaps the greatest irregularity in this case is the judge's perjury, clearly
62 viewable in the Register of Actions. In the judge's Strike Order of 13 November
63 2014, he states that the Plaintiff filed no rebuttal to the Defendant's Special
64 Motion to Strike and Demurrer request. The Register of Actions shows clearly the
65 opposite. And an attachment to the 22 April 2015 Case Management meeting
66 that explained the response point by point appears to have been totally ignored.
67 Note also that the meeting was conveniently cancelled as, is likely, it would have
68 cast an extremely negative light on both judge and Defendant. Perjury and
69 hacking are criminal activities.

70

71 6. There is also the matter of Google's hacking attacks. They have now been
72 proven and the results can be seen in a second attachment to the cancelled 22
73 April 2015 Case Management meeting. Apparently such criminal activity is also of
74 no concern to the court and this judge.

75

76 **7. There has been significant new evidence in the case:**

77

78 a. The disclosure of leaked documents concerning the 2013 "ruling" by the FTC
79 regarding Google disclosed that the actual investigators concluded that Google
80 was guilty of anticompetitive behavior, with harm to both to competing
81 businesses and to consumer, and these real investigators recommended
82 punishing Google for it. The administrative law judges with the FTC, who are
83 politically appointed animals, chose to deal with Google in a political way.
84 However, they did not exonerate Google, as Google has falsely claimed in court
85 documents; quite to the contrary, they put Google on probation for 20 years but
86 did nothing to stop their anticompetitive behavior. (Note also here that the whole
87 basis of the Strike Order is the absurd notion presented by Google that it is a
88 Publisher and can do anything it wants. Why didn't the FTC buy that notion in the
89 two years of investigation and simply drop their investigation? Why? Because
90 they knew it was nonsense.)

91

92 b. The European Union's anticompetitive body has initiated a lawsuit against
93 Google on the same grounds as raised by S. LOUIS MARTIN. Would they do so
94 frivolously? Not likely. Nor would S. LOUIS MARTIN in his lawsuit.

95

96 c. Since the revelation of the leaked documents to the Wall Street Journal, the US
97 Congress will resume its investigation into Google's anticompetitive behavior.

98

99 Items a, b, and c above are all new "competent" evidence that no honest judge
100 can overlook.

101

102 **8. Throughout this case a double standard has been applied: One to the guiled**
103 **hand of Google, quite another to poor-boy S. LOUIS MARTIN. Beyond**

104 extraordinarily generous extensions of deadlines to Google on its filings, and
105 unquestioning acceptance of any idea put forth by Google, the court has failed to
106 ask a single substantive question of S. LOUIS MARTIN, with apparently no curiosity
107 whatsoever to know what the "fuss" is all about.

108

109 9. Every time a Case Management meeting is schedule, it gets cancelled when
110 significant documents are filed. When I am prepared with new documents and
111 related information, such as easy-to-prove allegations of perjury by the judge and
112 proven hacking attacks by the Defendant, and Google has nothing new to offer,
113 the meeting is cancelled without explanation. I think there is no mystery here. It is
114 one more way to suppress the facts of the case and throw the prize to American
115 Champion Google.

116

117 10. The whole case is tainted by politics and money. It is taking place in the
118 "corrupted currents" of the new digital landscape, demonstrating that moral
119 authority has not improved in the last 450 or so years.

120

121 11. The grammar of the Strike Order of 13 November 2014 is faulty. Please reread
122 it. It says that the Plaintiff's complaint is protected by Free Speech rights, not
123 Google's bad behavior. I presume the judge meant to say that Google's bad
124 behavior was protected by First Amendment rights but that is not what it says.
125 Thus the Strike Order itself is faulty and should at least be rewritten.

126

127 If the court cares to enhance the evidence of serious judicial misbehavior, then
128 ignoring this motion and signing a final dismissal is certainly the way to go,
129 guaranteeing the case moves "above" to a higher moral authority.

130

131 S. LOUIS MARTIN

132

133 By /s/ S. Louis Martin

134 Pro se representative for Plaintiff

135 S. Louis Martin

136 28 April 2015

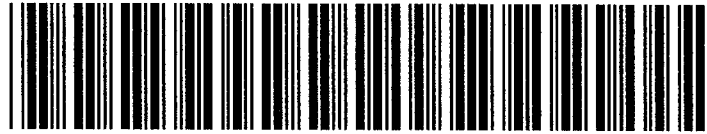
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138 **Hearing Reservation Number: 04280629-03**

139 **Hearing Department: 302**

140 **Hearing Date: 29 June 2015**

141 **Hearing Time: 9:30 AM**



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Jun-29-2015 11:29 am

Case Number: CGC-14-539972

Filing Date: Jun-29-2015 11:29

Filed by: SEAN KANE

Juke Box: 001 Image: 04971252

ORDER

S. LOUIS MARTIN VS. GOOGLE, INC

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Instructions:

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SCOTT A. SHER, State Bar No. 190053
DAVID H. REICHENBERG (*admitted pro hac vice*)
WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 565-5100
Email: dreichenberg@wsgr.com

F I L E D
Superior Court of California
County of San Francisco

JUN 29 2015

CLERK OF THE COURT

BY: *Dean Kory*
Deputy Clerk

Attorneys for Defendant
GOOGLE INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

S. LOUIS MARTIN,
Plaintiff,

v.

GOOGLE INC.,
Defendant.

CASE NO.: CGC-14-539972

~~PROPOSED~~ ORDER DENYING
PLAINTIFF'S MOTION TO
VACATE JUDGMENT OF 21 APRIL
2015

Date: June 29, 2015
Time: 9:30 a.m.
Dept: 302
Reservation No.: 04280629-03

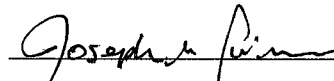
Complaint Filed: June 17, 2014

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On June 29, 2015, Plaintiff S. Louis Martin's Motion to Vacate Judgment of 21 April 2015 came for hearing. The motion is denied. Plaintiff does not set forth a valid ground for vacating the judgment. (See CCP secs. 473(b) and 663.).

IT IS SO ORDERED.

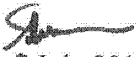
Dated: June 29, 2015



THE HONORABLE Joseph M. Quinn
~~ERNEST H. GOLDSMITH~~
San Francisco Superior Court

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): S. LOUIS MARTIN Pro Se Attorney 588 Sutter Street, No 105, San Francisco, CA 94102 TELEPHONE NO.: 415-871-6803 FAX NO. (Optional): E-MAIL ADDRESS (Optional): slouismartin@outlook.com ATTORNEY FOR (Name):	FOR COURT USE ONLY ELECTRONICALLY FILED <i>Superior Court of California, County of San Francisco</i> 07/09/2015 Clerk of the Court BY: MELISSA DONG Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: 400 McAllister Street CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: San Francisco	
PLAINTIFF/PETITIONER: S. LOUIS MARTIN DEFENDANT/RESPONDENT: GOOGLE, INC.	
<input checked="" type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)	CASE NUMBER: CGC-14-539972
Notice: Please read Information on Appeal Procedures for Unlimited Civil Cases (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.	

1. NOTICE IS HEREBY GIVEN that (name): **S. LOUIS MARTIN**
 appeals from the following judgment or order in this case, which was entered on (date):
- Judgment after jury trial
 Judgment after court trial
 Default judgment
 Judgment after an order granting a summary judgment motion
 Judgment of dismissal under Code of Civil Procedure sections 581d, 583.250, 583.360, or 583.430
 Judgment of dismissal after an order sustaining a demurrer
 An order after judgment under Code of Civil Procedure section 904.1(a)(2)
 An order or judgment under Code of Civil Procedure section 904.1(a)(3)-(13)
 Other (describe and specify code section that authorizes this appeal):
2. For cross-appeals only:
- a. Date notice of appeal was filed in original appeal:
- b. Date superior court clerk mailed notice of original appeal:
- c. Court of Appeal case number (if known):

Date:  8 July 2015

/s/ S. Louis Martin

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME: S. LOUIS MARTIN V GOOGLE, INC.	CASE NUMBER: CGC-14-539972
--	-------------------------------

NOTICE TO PARTIES: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. A person who is at least 18 years old and is not a party to this appeal must complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the front and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

PROOF OF SERVICE

Mail Personal Service

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**

2. My residence or business address is (*specify*):

Robert Martin
973 Calle Miramar, Redondo Beach, CA 90277

3. I mailed or personally delivered a copy of the *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* as follows (*complete either a or b*):

a. **Mail.** I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope **and**

(a) **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(b) **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

(2) The envelope was addressed and mailed as follows:

(a) Name of person served: **David Reichenberg**

(b) Address on envelope:

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road, Palo Alto, CA 94304-1050

(c) Date of mailing: **7 July 2015**

(d) Place of mailing (*city and state*): **Redondo Beach, CA**

b. **Personal delivery.** I personally delivered a copy as follows:

(1) Name of person served:

(2) Address where delivered:

(3) Date delivered:

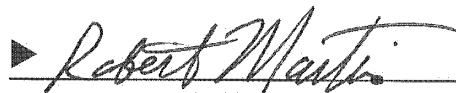
(4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **8 July 2015**

Robert Martin

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)



Superior Court of California, County of San Francisco

Case Number: CGC 14 539972

Title: S. LOUIS MARTIN VS. GOOGLE, INC

Cause of Action: ANTITRUST/UNFAIR COMPETITION

Generated: Jul-28-2015 10:21 pm

[Register of Actions](#) [Parties](#) [Attorneys](#) [Calendar](#) [Payments](#) [Documents](#)

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After that, please refresh your web browser. (by pressing Command +R for Mac, pressing F5 for Windows or
clicking the refresh button on your web browser)**

Register of Actions

Date Range: First Date Last Date (Dates must be entered as MMM-DD-YYYY)

Date	Proceedings	Document	Fee
JUL-28-2015	PRO HAC VICE RENEWAL FEE PAID FOR ATTORNEY DAVID H. REICHENBERG		500.00
JUL-22-2015	NOTICE TO REPORTER TO PREPARE TRANSCRIPT PURSUANT TO DECLARATION (S. SAWYER & M. GHENO)	View	
JUL-20-2015	DECLARATION REGARDING PAYMENT FOR REPORTER TRANSCRIPTS (TRANSACTION ID # 57573748) FILED BY APPELLANT MARTIN, S. LOUIS	View	
JUL-17-2015	REQUEST TO WAIVE COURT FEES AND COSTS PURSUANT TO G.C. 68633, CRC 3.51, 8.26, AND 8.818 (CONFIDENTIAL) FILED BY PLAINTIFF MARTIN, S. LOUIS ORDER FOR WAIVER OF COURT FEES AND COSTS GRANTED PURSUANT TO G.C. 68634 (E), CRC 3.52		
JUL-15-2015	REQUEST FOR CLERK'S/REPORTER'S TRANSCRIPT (8.124)(TRANSACTION ID # 57558598) FILED BY APPELLANT MARTIN, S. LOUIS	View	
JUL-14-2015	CLERK'S NOTICE OF FILING OF NOTICE OF APPEAL	View	
JUL-09-2015	NOTICE OF APPEAL (TRANSACTION ID # 57523075) FILED BY APPELLANT MARTIN, S. LOUIS	View	100.00
JUL-08-2015	NOTICE SENT TO ATTORNEY DAVID H. REICHENBERG TO PAY PRO HAC VICE RENEWAL FEE BY AUG-26-2015	View	
JUN-29-2015	ORDER DENYING PLAINTIFF'S MOTION TO VACATE JUDGMENT OF 21 APRIL 2015	View	
JUN-29-2015	LAW AND MOTION, 302, PLAINTIFF S. MARTIN MOTION TO VACATE JUDGMENT OF 21 APRIL 2015 IN CASE CGC-14-539972, S. LOUIS MARTIN V GOOGLE, INC. IS DENIED. ORDER SIGNED IN OPEN COURT. (SEE MINI-MINUTES AND ORDER FOR COMPLETE RULING.) JUDGE JOSEPH M. QUINN; CLERK FELICIA GREEN; COURT REPORTER MELANIE GHENO, CSR NO. 7489 (302/JMQ)		
JUN-29-2015	MINI MINUTES FOR JUN-29-2015 09:30 AM FOR DEPT 302		

JUN-04-2015	ORDER TO SHOW CAUSE OF JUN-23-2015 IS OFF CALENDAR. JUDGMENT ON FILE. NOTICE SENT BY COURT.	View	
MAY-07-2015	OPPOSITION TO PLAINTIFFS MOTION TO VACATE JUDGMENT (TRANSACTION ID # 57203864) FILED BY DEFENDANT GOOGLE, INC	View	
APR-30-2015	COURT REPORTING SERVICES LESS THAN 1 HOUR (TRANSACTION ID # 57165303) FILED BY PLAINTIFF MARTIN, S. LOUIS	View	30.00
APR-30-2015	MOTION TO VACATE JUDGMENT OF 21 APRIL 2015 IN CASE CGC-14-539972, S. LOUIS MARTIN V GOOGLE, INC. (TRANSACTION ID # 57165303) FILED BY PLAINTIFF MARTIN, S. LOUIS HEARING SET FOR JUN-29-2015 AT 09:30 AM IN DEPT 302	View	60.00
APR-23-2015	PROOF OF SERVICE VIA U.S. MAIL (TRANSACTION ID # 57128921) FILED BY DEFENDANT GOOGLE, INC	View	
APR-23-2015	NOTICE OF ENTRY OF JUDGMENT (TRANSACTION ID # 57128921)	View	
APR-21-2015	THE COURT ORDERED THE FOLLOWING JUDGMENT ENTERED: IT IS ADJUDGED THAT PLAINTIFF MARTIN, S. LOUIS TAKE NOTHING FROM DEFENDANT GOOGLE, INC SEE SCANNED DOCUMENT	View	
APR-16-2015	PROOF OF SERVICE (TRANSACTION ID # 57090865) FILED BY DEFENDANT GOOGLE, INC	View	
APR-16-2015	DECLARATION OF BRADLEY T. TENNIS IN SUPPORT OF [PROPOSED] JUDGMENT OF DISMISSAL (TRANSACTION ID # 57090865) FILED BY DEFENDANT GOOGLE, INC	View	20.00
APR-08-2015	ORDER TO SHOW CAUSE SET FOR JUN-23-2015 IN DEPARTMENT 610 AT 10:30 AM FOR FAILURE TO FILE JUDGMENT FOLLOWING ORDER GRANTING MOTION TO STRIKE. THE APR-22-2015 CASE MANAGEMENT CONFERENCE IS OFF CALENDAR. NOTICE SENT BY COURT.	View	
APR-01-2015	GOOGLE HACKING ATTACKS - ATTACHMENT #2 TO CASE MANAGEMENT STATEMENT FOR CASE CGC-14-539972 (S. LOUIS MARTIN V GOOGLE), FOR 22 APRIL 2015 MEETING (TRANSACTION ID # 57003485) FILED BY PLAINTIFF MARTIN, S. LOUIS	View	
APR-01-2015	ASSOCIATION OF ATTORNEYS, (BY NOTICE OF APPEARANCE OF COUNSEL) (TRANSACTION ID # 57002307): TENNIS, BRADLEY T. ADDED AS ATTORNEY FOR GOOGLE, INC	View	
MAR-27-2015	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 56988493) FILED BY DEFENDANT GOOGLE, INC	View	
FEB-24-2015	ATTACHMENT TO CASE MANAGEMENT STATEMENT FOR CASE CGC-14-539972 (S. LOUIS MARTIN V GOOGLE, INC.), FOR 22 APRIL 2015 MEETING (TRANSACTION ID # 56822699) FILED BY PLAINTIFF MARTIN, S. LOUIS	View	
FEB-24-2015	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 56822699) FILED BY PLAINTIFF MARTIN, S. LOUIS JURY DEMANDED, ESTIMATED TIME FOR TRIAL: 5.0 DAYS	View	
FEB-10-2015	CASE MANAGEMENT STATEMENT (TRANSACTION ID #	View	

	56752747) FILED BY DEFENDANT GOOGLE, INC		
FEB-10-2015	CASE MANAGEMENT CONFERENCE OF FEB-25-2015 CONTINUED TO APR-22-2015 AT 10:30 AM IN DEPARTMENT 610 FOR DEFENDANT(S) TO FILE JUDGMENT. NOTICE SENT BY COURT.	View	
FEB-04-2015	PROOF OF SERVICE (TRANSACTION ID # 56717584) FILED BY DEFENDANT GOOGLE, INC	View	
FEB-04-2015	NOTICE OF ENTRY OF ORDER/NOTICE OF RULING FILED (TRANSACTION ID # 56717584) FILED BY DEFENDANT GOOGLE, INC	View	
FEB-03-2015	MINI MINUTES FOR FEB-03-2015 09:30 AM FOR DEPT 302		
FEB-03-2015	LAW AND MOTION, 302, PLAINTIFF S. LOUIS MARTIN'S MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014 IN CASE 539972, S. LOUIS MARTIN V GOOGLE, INC. IS DENIED. THE COURT DENIES PLAINTIFF'S CONTINUANCE REQUEST. ORDER SIGNED IN OPEN COURT. (SEE ORDER FOR COMPLETE RULING.) JUDGE: ERNEST H. GOLDSMITH; CLERK: SEAN KANE; REPORTER: MELANIE DAWN GHENO, CSR #7489 (302/EHG)		
FEB-03-2015	ORDER DENYING PLAINTIFF'S REQUEST FOR CONTINUANCE OF FEBRUARY 3, 2015 HEARING AND MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014	View	
JAN-27-2015	REQUEST FOR CONTINUANCE OF 3 FEBRUARY 2015 HEARING IN CASE 539972, S. LOUIS MARTIN V GOOGLE, INC. (TRANSACTION ID # 56667936) FILED BY PLAINTIFF MARTIN, S. LOUIS	View	
JAN-20-2015	PROOF OF SERVICE BY HAND DELIVERY (TRANSACTION ID # 56633036) FILED BY DEFENDANT GOOGLE, INC	View	
JAN-20-2015	DECLARATION OF DAVID H. REICHENBERG IN SUPPORT OF GOOGLE INC.S OPPOSITION TO PLAINTIFFS MOTION TO VACATE ORDER STRIKING COMPLAINT (TRANSACTION ID # 56633036) FILED BY DEFENDANT GOOGLE, INC	View	
JAN-20-2015	DEFENDANT GOOGLE INC.S OPPOSITION TO PLAINTIFFS MOTION TO VACATE ORDER STRIKING COMPLAINT (TRANSACTION ID # 56633036) FILED BY DEFENDANT GOOGLE, INC	View	
DEC-22-2014	ATTACHMENT TO CASE MANAGEMENT STATEMENT FOR CASE CGC-14-539972 (S. LOUIS MARTIN V GOOGLE, INC.), FOR 31 DECEMBER 2014 MEETING; (TRANSACTION ID # 56509395) FILED BY PLAINTIFF MARTIN, S. LOUIS	View	
DEC-22-2014	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 56509395) FILED BY PLAINTIFF MARTIN, S. LOUIS JURY DEMANDED, ESTIMATED TIME FOR TRIAL: 5.0 DAYS	View	
DEC-16-2014	CASE MANAGEMENT CONFERENCE OF DEC-31-2014 CONTINUED TO FEB-25-2015 AT 10:30 AM IN DEPARTMENT 610 FOR DEFENDANT(S) TO FILE JUDGMENT FOLLOWING ORDER GRANTING MOTION TO STRIKE. NOTICE SENT BY COURT.	View	
DEC-10-2014	MOTION TO VACATE STRIKE ORDER OF 13 NOVEMBER 2014 IN CASE 539972, S. LOUIS MARTIN V GOOGLE, INC.	View	60.00

	(TRANSACTION ID # 56453793) FILED BY PLAINTIFF MARTIN, S. LOUIS HEARING SET FOR FEB-03-2015 AT 09:30 AM IN DEPT 302		
DEC-04-2014	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 56422312) FILED BY DEFENDANT GOOGLE, INC	View	
DEC-02-2014	ORDER OVERRULING AS MOOT DEFENDANT GOOGLE INC.'S DEMURRER TO COMPLAINT	View	
NOV-19-2014	NOTICE OF ENTRY OF JUDGMENT (TRANSACTION ID # 56363218)	View	
NOV-13-2014	ORDER GRANTING DEFENDANT GOOGLE INC. TO STRIKE PLAINTIFF'S COMPLAINT PURSUANT TO CIV. PROC. CODE § 425.16	View	
NOV-13-2014	MINI MINUTES FOR NOV-13-2014 09:30 AM FOR DEPT 302		
NOV-13-2014	MINI MINUTES FOR NOV-13-2014 09:30 AM FOR DEPT 302		
NOV-13-2014	LAW AND MOTION 302, DEFENDANT GOOGLE, INC'S MOTION TO STRIKE COMPLAINT IS GRANTED. DEFENDANT HAS MET ITS BURDEN OF SHOWING THAT THE CLAIMS ASSERTED AGAINST IT ARISE FROM CONSTITUTIONALLY PROTECTED ACTIVITY, THEREBY SHIFTING THE BURDEN TO PLAINTIFF TO DEMONSTRATE A PROBABILITY OF PREVAILING ON THE MERITS OF THE COMPLAINT. PLAINTIFF HAS FAILED TO FILE AN OPPOSITION TO DEFENDANT'S MOTION, AND HAS PRODUCED NO EVIDENCE SUPPORTING A PROBABILITY OF SUCCESS. ORDER SIGNED IN OPEN COURT. JUDGE: ERNEST H. GOLDSMITH; CLERK: CYNTHIA HERBERT; REPORTER: SHERYL L. SAWYER, CSR # 5976 (302/EHG)		
NOV-13-2014	LAW AND MOTION 302, DEFENDANT GOOGLE, INC'S DEMURRER TO COMPLAINT IS OVERRULED AS MOOT IN LIGHT OF THE RULING ON THE SPECIAL MOTION TO STRIKE. PREVAILING PARTY TO PREPARE FORM OF ORDER. PREVAILING PARTY TO PREPARE A FORM OF ORDER. JUDGE: ERNEST H. GOLDSMITH; CLERK: CYNTHIA HERBERT; REPORTER: SHERYL L. SAWYER, CSR # 5976 (302/EHG)		
NOV-12-2014	SUPPLEMENTARY DOCUMENT RE: WHAT IS GOOGLE? FILED BY PLAINTIFF MARTIN, S. LOUIS		
NOV-12-2014	SUPPLEMENT: SHIFTING SEARCH SCENARIOS, EXTREME BIAS FILED BY PLAINTIFF MARTIN, S. LOUIS		
NOV-12-2014	SUPPLEMENTARY DOCUMENT RE: INTRO TO WHAT IS GOOGLE FILED BY PLAINTIFF MARTIN, S. LOUIS		
NOV-12-2014	PROOF OF SERVICE FILED BY PLAINTIFF MARTIN, S. LOUIS		
NOV-12-2014	THE CASE FOR CONTINUING THE CASE AGAINST GOOGLE AND REJECTING ITS DEMURRER REQUEST FILED BY PLAINTIFF MARTIN, S. LOUIS		
NOV-03-2014	CASE MANAGEMENT CONFERENCE OF NOV-19-2014 CONTINUED TO DEC-31-2014 AT 10:30 AM IN DEPARTMENT	View	

	610. NOTICE SENT BY COURT.		
OCT-27-2014	CASE MANAGEMENT STATEMENT (TRANSACTION ID # 56250781) FILED BY PLAINTIFF MARTIN, S. LOUIS ALSO FILED BY DEFENDANT GOOGLE, INC	View	
OCT-22-2014	SUPPLEMENT: SHIFTING SEARCH SCENARIOS, EXTREME BIAS FILED BY PLAINTIFF MARTIN, S. LOUIS		
OCT-15-2014	LAW AND MOTION 302,DEFENDANT GOOGLE, INC.'S MOTION TO STRIKE COMPLAINT. JUDGE MILLER IS RECUSED. THE MOTION IS CONTINUED TO NOVEMBER 13, 2014 AT 9:30 AM IN DEPT. 302 TO BE HEARD BY JUDGE GOLDSMITH. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; REPORTER: SHERYL L. SAWYER, CSR# 5976.(302/MJM)		
OCT-15-2014	LAW AND MOTION 302, DEFENDANT GOOGLE, INC.'S DEMURRER TO COMPLAINT. JUDGE MILLER IS RECUSED. THE MOTION IS CONTINUED TO NOVEMBER 13, 2014 AT 9:30 AM IN DEPT. 302 TO BE HEARD BY JUDGE GOLDSMITH. JUDGE: MARLA J. MILLER; CLERK: GINA GONZALES; REPORTER: SHERYL L. SAWYER, CSR# 5976.(302/MJM)		
OCT-15-2014	MINI MINUTES FOR OCT-15-2014 09:30 AM FOR DEPT 302		
OCT-15-2014	MINI MINUTES FOR OCT-15-2014 09:30 AM FOR DEPT 302		
OCT-10-2014	INTRODUCTION SUPPLEMENT TO RUBUTTAL RESPONSE TO DEMURRER FILED BY PLAINTIFF MARTIN, S. LOUIS		
OCT-10-2014	SUPPLEMENT TO REBUTTAL RESPONSE TO DEMURRER FILED BY PLAINTIFF MARTIN, S. LOUIS		
SEP-30-2014	PROOF OF SERVICE (TRANSACTION ID # 56107611) FILED BY DEFENDANT GOOGLE, INC	View	
SEP-30-2014	APPENDIX OF NON-CALIFORNIA AND UNPUBLISHED AUTHORITY IN SUPPORT OF DEFENDANT GOOGLE INC.S REPLY IN SUPPORT OF ITS DEMURRER TO PLAINTIFFS COMPLAINT (TRANSACTION ID # 56106768) FILED BY DEFENDANT GOOGLE, INC	View	
SEP-30-2014	REPLY IN SUPPORT OF DEFENDANT GOOGLE INC.S DEMURRER TO PLAINTIFFS COMPLAINT (TRANSACTION ID # 56106768) FILED BY DEFENDANT GOOGLE, INC	View	
SEP-12-2014	EVIDENCE: ADDITIONAL CORROBORATION LINKS FILED BY PLAINTIFF MARTIN, S. LOUIS		
SEP-12-2014	EVIDENCE: CORROBORATION OF EXPERTS FILED BY PLAINTIFF MARTIN, S. LOUIS		
SEP-10-2014	REBUTTAL TO GOOGLE'S DEMURRER WITH REBUTAL TITLE: THE CASE FOR CONTINUING THE CASE AGAINST GOOGLE- AND REJECTING ITS DEMURRER REQUEST FILED BY PLAINTIFF MARTIN, S. LOUIS	View	
SEP-03-2014	COURT REPORTING SERVICES LESS THAN 1 HOUR RE: DEMURRER ON 10/15/14 (TRANSACTION ID # 55975100) FILED BY DEFENDANT GOOGLE, INC	View	30.00
AUG-29-2014	APPENDIX OF NON-CALIFORNIA AND UNPUBLISHED AUTHORITIES CITED IN MO TO STRIKE COMPLT PURSUANT TO CCP 425.16 (TRANSACTION ID # 55961470) FILED BY	View	

	DEFENDANT GOOGLE, INC		
AUG-29-2014	PROOF OF PERSONAL SERVICE (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-29-2014	DECLARATION OF JACOB HAUBER IN SUPPORT OF MO TO STRIKE COMPLT PURSUANT TO CCP 425.16 (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-29-2014	DECLARATION OF DAVID H. REICHENBERG IN SUPPORT OF MO TO STRIKE COMPLT PURSUANT TO CCP 425.16 (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-29-2014	COURT REPORTING SERVICES LESS THAN 1 HOUR RE: MO TO STRIKE ON OCT-15-14 (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC	View	30.00
AUG-29-2014	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MO STRIKE COMPLT PURSUANT TO CCP 425.16 (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-29-2014	MOTION TO STRIKE COMPLAINT PURSUANT TO CCP 425.16 (TRANSACTION ID # 55960309) FILED BY DEFENDANT GOOGLE, INC HEARING SET FOR OCT-15-2014 AT 09:30 AM IN DEPT 302	View	60.00
AUG-13-2014	APPENDIX OF NON-CALIFORNIA AND UNPUBLISHED AUTHORITIES CITED IN DEFENDANT GOOGLE INC.S DEMURRER TO PLAINTIFFS COMPLAINT (TRANSACTION ID # 55885314) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-13-2014	PROOF OF SERVICE (TRANSACTION ID # 55885314) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-13-2014	REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT GOOGLE INC.S DEMURRER AND PLAINTIFFS COMPLAINT (TRANSACTION ID # 55885314) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-13-2014	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT GOOGLE INC.S DEMURRER TO PLAINTIFFS COMPLAINT (TRANSACTION ID # 55885314) FILED BY DEFENDANT GOOGLE, INC	View	
AUG-13-2014	DEMURRER TO COMPLAINT (TRANSACTION ID # 55885314) FILED BY DEFENDANT GOOGLE, INC HEARING SET FOR OCT-15-2014 AT 09:30 AM IN DEPT 302	View	60.00
AUG-07-2014	ORDER GRANTING APPLICATION TO APPEAR AS COUNSEL PRO HAC VICE FOR ATTORNEY DAVID H. REICHENBERG FILED BY COUNSEL FOR DEFENDANT GOOGLE, INC	View	
AUG-06-2014	RENOTICE OF EX PARTE MOTION OF DAVID H. REICHENBERG TO APPEAR AS COUNSEL PRO HAC VICE (TRANSACTION ID # 55843080) FILED BY DEFENDANT GOOGLE, INC	View	
JUL-31-2014	ORDER GRANTING EXTENSION OF TIME TO RESPOND TO COMPLAINT TO AUG-13-2014	View	
JUL-30-2014	DECLARATION OF SCOTT A. SHER IN SUPPORT OF PRO HAC VICE APPLICATION FOR DAVID H. REICHENBERG	View	

	(TRANSACTION ID # 55804827) FILED BY DEFENDANT GOOGLE, INC		
JUL-29-2014	PROOF OF SERVICE (TRANSACTION ID # 55804130) FILED BY DEFENDANT GOOGLE, INC	View	
JUL-29-2014	DECLARATION OF DAVID H. REICHENBERG IN SUPPORT OF APPLICATION TO APPEAR AS COUNSEL PRO HAC VICE (TRANSACTION ID # 55804130) FILED BY DEFENDANT GOOGLE, INC	View	
JUL-29-2014	APPLICATION TO ADMIT COUNSEL PRO HAC VICE (TRANSACTION ID # 55804130) FILED BY DEFENDANT GOOGLE, INC	View	500.00
JUL-22-2014	PROOF OF SERVICE ON SITPULATION AND [PROPOSED] ORDER TO EXTEND TIME TO RESPOND TO COMPLAINT (TRANSACTION ID # 55770323) FILED BY DEFENDANT GOOGLE, INC	View	
JUL-22-2014	FEE PAID ON [PROPOSED] ORDER GRANTING EXTENSION OF TIME TO RESPOND TO COMPLAINT (TRANSACTION ID # 55770323) FILED BY DEFENDANT GOOGLE, INC	View	20.00
JUL-22-2014	STIPULATION EXTENDING TIME FOR DEFENDANT TO RESPOND TO COMPLAINT (TRANSACTION ID # 55770323) FILED BY GOOGLE, INC MARTIN, S. LOUIS	View	
JUL-18-2014	ORDER RE: COMPLEX CASE DESIGNATION - DENIED	View	
JUL-15-2014	PROOF OF PERSONAL SERVICE / BY HAND DELIVERY (TRANSACTION ID # 55735853) FILED BY DEFENDANT GOOGLE, INC	View	
JUL-15-2014	APPLICATION FOR APPROVAL OF COMPLEX LITIGATION DESIGNATION (TRANSACTION ID # 55735853) FILED BY DEFENDANT GOOGLE, INC	View	60.00
JUL-15-2014	NOTICE OF APPEARANCE (TRANSACTION ID # 55735853) FILED BY DEFENDANT GOOGLE, INC	View	1450.00
JUL-15-2014	SUMMONS ON COMPLAINT FILED BY PLAINTIFF MARTIN, S. LOUIS SERVED JUN-30-2014, PERSONAL SERVICE ON DEFENDANT GOOGLE, INC	View	
JUN-17-2014	NOTICE TO PLAINTIFF	View	
JUN-17-2014	ANTITRUST/UNFAIR COMPETITION, COMPLAINT FILED BY PLAINTIFF MARTIN, S. LOUIS AS TO DEFENDANT GOOGLE, INC SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR NOV-19-2014 PROOF OF SERVICE DUE ON AUG-18-2014 CASE MANAGEMENT STATEMENT DUE ON OCT-27-2014	View	450.00