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7 Attorneys for Defendants  
 8 GOOGLE INC., LYCOS, INC., IAC SEARCH & MEDIA, INC.,  
 9 and EARTHLINK INC.

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12 SANTA ANA DIVISION

13 MARK MISHAK, dba INEEDATV.COM,  
 14 Plaintiff,  
 15 v.

Case No. CV07-8258 CAS (JCRx)

**DECLARATION OF MICHAEL H. PAGE  
 IN SUPPORT OF MOTION FOR RULE 11  
 SANCTIONS**

16 GOOGLE, INC., AMERICAN ONLINE,  
 17 INC., NETSCAPE, INC., MICROSOFT  
 18 NETWORK, INC., ASK JEEVES, INC.  
 19 EXCITE, INC., WEBCRAWLER, INC.,  
 20 YAHOO, INC., CONVERSA, INC., LYCOS,  
 21 INC., HOTBOT INC., ALTAVISTA INC.,  
 22 CRAIGSLIST INC., RESPOND INC.,  
 INFOSEEK INC., YELLOW PAGES INC.,  
 PLANETSEARCH INC., PRONET INC.,  
 NORTHERNLIGHT INC., LUCKYSURF  
 INC., COMFIND INC., LIQUIDPRICE INC.,  
 EARTHLINK INC., DOES 1-100,  
 Defendants.

Judge: The Honorable Christina A. Snyder

Date Comp. Filed: December 20, 2007

23 I, Michael H. Page declare that:

24 1. I am a partner in the law firm of Keker & Van Nest, LLP, and counsel to  
 25 Defendants Google Inc. ("Google"), IAC Search & Media, Inc. ("Ask"), Lycos, Inc. ("Lycos"),  
 26 and Earthlink, Inc. ("Earthlink"). I am licensed to practice law in California. I have personal  
 27 knowledge of the facts set forth herein and if sworn as a witness could and would testify  
 28 competently thereto.

1           2.       Since being retained as counsel in this matter, I have repeatedly tried to meet and  
2 confer with Roger Agajanian, Mr. Mishak's counsel in this matter, in an attempt to explain to  
3 him the myriad falsehoods in his Complaint and First Amended Complaint.

4           3.       On January 17, 2008, I called Mr. Agajainian and left him a message introducing  
5 myself and asking him to contact me.

6           4.       On January 18, 2008, having not heard from Mr. Agajanian, I called him again.  
7 We spoke, and I explained to him the various defects in his complaint. In particular, I explained  
8 that his client's website and business did not exist, and appeared to have ceased operation at the  
9 latest in December, 2004. He professed surprise at this, stated that he had relied on his client's  
10 representations in drafting the complaint, and promised to speak to his client and get back to me.  
11 I also offered to execute waivers of service for my clients, and Mr. Agajanian said he would  
12 forward them to me the next day. I have never received them. I also advised Mr. Agajanian that  
13 Google was unaware of any prior demands by his client, and asked that he provide them to me if  
14 they existed. I memorialized this conversation in an email to Mr. Agajanian, attached hereto as  
15 Exhibit A.

16           5.       Five days later, having heard and received nothing from Mr. Agajanian, I called  
17 him again on January 23, 2008. Mr. Agajanian again promised to send me acknowledgement  
18 and waiver forms, stated that he had not read my email of January 18 but would do so, and said  
19 he would promptly discuss the matter with his client and get back to me.

20           6.       On January 28, 2008, having again heard nothing from Mr. Agajanian, I sent him  
21 another email, asking again that he dismiss his complaint, and that he provide me with copies of  
22 the alleged prior communications with Google. I also asked that he stipulate that the responsive  
23 pleading date for Lycos (the only one of my clients that had been served) be extended to  
24 Google's eventual response date. That email is attached hereto as Exhibit B.

25           7.       On January 30, 2008, having not heard from Mr. Agajanian, I left him another  
26 voicemail, asking him to contact me.

27           8.       On January 31, 2008, having still heard nothing, I sent Mr. Agajanian yet another  
28 email, attached hereto as Exhibit C.

1           9.       On Friday, February 1, Mr. Agajanian sent me an email agreeing to extend the  
2 time for Lycos to respond by 30 days, and promising to contact me later that day or the following  
3 “Monday at the latest.” He did not do so. That email, which is the only communication I have  
4 ever received from Mr. Agajanian, is attached hereto as Exhibit D. My response to that email is  
5 attached hereto as Exhibit E.

6           10.       On February 6, 2008, I again left Mr. Agajanian a voicemail, which was not  
7 returned. On February 7, 2008, I reached Mr. Agajanian on his cell phone. He stated that he had  
8 spoken to his client, and was now aware that his client’s alleged business does not exist. He  
9 promised to get back to me on Monday, February 11, 2008 to tell me whether he would agree to  
10 dismiss his complaint. Based on that promise, I agreed to forego serving a Rule 11 complaint  
11 until then. He never got back to me. On February 11, 2008, I left yet another voicemail for Mr.  
12 Agajanian.

13           11.       On February 12, 2008, I served a draft Rule 11 motion on Mr. Agajanian, and  
14 provided him with an electronic courtesy copy as well. That draft, along with its proof of service  
15 and cover letter, are Attached hereto as Exhibit F. I also left Mr. Agajanian yet another  
16 voicemail on that date.

17           12.       From February 12 through February 25, I tried to reach Mr. Agajanian at least  
18 four times, leaving him voicemails on one or two occasions.

19           13.       On February 27, 2008, Mishak filed his First Amended Complaint. On February  
20 28, 2008, I again wrote to Mr. Agajanian, detailing the multiple Rule 11 problems with his  
21 amended complaint, urging him to reconsider his position, offering to accept service of  
22 summons, and asking him to contact me. A copy of that email is attached hereto as Exhibit G.

23           14.       On Marc 3, 2008, I again tried to call Mr. Agajanian to meet and confer on a  
24 hearing date for this motion, and left him a voicemail. He did not return the call. On March 4,  
25 2008, I sent him an email proposing March 31 as a hearing date. A copy of that email is attached  
26 hereto as Exhibit H. I received no response.

27           15.       Attached hereto as Exhibit I is a copy of the Complaint in *American Blind &*  
28 *Wallpaper Factory, Inc. v. Google et al.*, S.D.N.Y. No. 04 CV 00642 (2004). I was lead counsel

