

1 MILES D. SCULLY (SBN: 135853)
2 ALLISON F. BORTS (SBN: 197895)
3 JUSTIN D. LEWIS (SBN: 239686)
4 GORDON & REES, L.L.P.
5 101 W. Broadway, suite 2000
6 San Diego, California 92101
7 Telephone: (619) 696-6700
8 Facsimile: (619) 696-7124

**CHAMBER'S
COPY**

E-FILING

ORIGINAL FILED

FEB 20 2013

Attorneys for defendant
TELETECH SERVICES CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 DAVID F. CALKINS,
12 Plaintiff,

CV 13 CASE NO. 0760

PSG

v.

**NOTICE OF REMOVAL UNDER
28 U.S.C. § 1332(d) (CLASS
ACTION FAIRNESS ACT OF
2005)**

14 GOOGLE, INC., a Delaware
15 corporation, TELETECH SERVICES
16 CORPORATION, a Colorado
17 corporation, and DOES 2 through 10,
18 inclusive,

Jury Trial Demanded

Defendants.

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

20 1. On February 17, 2012, an action was commenced in the Superior
21 Court of California in Santa Clara County, entitled *Calkins v. Google, Inc.*, as case
22 number 1-12-CV-218874. A copy of the complaint is attached hereto as Exhibit A.
23 On October 12, 2012, plaintiff in that action filed a first amended complaint, a
24 copy of which is attached hereto as Exhibit B. Plaintiff alleges that defendants
25 recorded phone calls in violation of California Penal Code section 632.

26 2. This action is a civil action of which this Court has original
27 jurisdiction under 28 U.S.C. section 1332, and is one which may be removed to
28 this Court by defendant TeleTech Services Corporation ("TeleTech") pursuant to

Gordon & Rees LLP
101 W. Broadway
Suite 2000
San Diego, CA 92101

Gordon & Rees LLP
101 W. Broadway
Suite 2000
San Diego, CA 92101

1 the provisions of 28 U.S.C. section 1332(d) in that it is a putative class action
2 alleged to involve more than 100 class members, the amount in controversy
3 exceeds \$5,000,000, and minimal diversity exists as between plaintiff and
4 defendants.

5 3. Minimal diversity of citizenship exists in that plaintiff is a California
6 citizen, while TeleTech is a Colorado corporation with a principal place of
7 business in Colorado.

8 4. When this action was originally filed, the complaint did not allege an
9 amount in controversy in excess of \$5,000,000. Neither does the operative first
10 amended complaint allege an amount in controversy in excess of \$5,000,000. At
11 no point in the proceedings to date has plaintiff filed or served any other paper
12 alleging an amount in controversy in excess of \$5,000,000.

13 5. However, TeleTech has learned that there will, in fact, be greater than
14 1,000 phone calls in dispute.

15 6. Plaintiff alleges that each class member is entitled to \$5,000 in
16 statutory damages for each separate alleged violation of California Penal Code
17 section 632. Given that the number of disputed calls will exceed 1,000, it is now
18 clear that the amount in controversy exceeds \$5,000,000.

19 7. The remaining exhibits attached hereto constitute additional
20 documents filed and served in this action.

21 Dated: February 20, 2013

GORDON & REES, L.L.P.

22
23 By: Justin D. Lewis

Miles D. Scully
Allison F. Borts
Justin D. Lewis
Attorneys for defendant
TELETECH SERVICES
CORPORATION

DEMAND FOR JURY TRIAL

Defendant TeleTech Services Corporation hereby demands trial by jury.

Dated: February 20, 2013

GORDON & REES, L.L.P.

By: Justin D. Lewis

Miles D. Scully
Allison F. Borts
Justin D. Lewis
Attorneys for defendant
TELETECH SERVICES
CORPORATION

Gordon & Rees LLP
101 W. Broadway
Suite 2000
San Diego, CA 92101

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28