

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1 Plaintiff National Australia Bank Ltd. (“NAB” or “the Bank”), by and through its attorneys
2 Sidley Austin LLP, hereby moves for a preliminary injunction against Defendant Google Inc.
3 (“Google”), so that Google can cooperate in recovering certain misdirected emails that may contain
4 private personal information while maintaining compliance with the Stored Communications Act.

5 **INTRODUCTION**

6 NAB is one of the largest financial services institutions in Australia. For over 150 years,
7 NAB has provided financial services to large and small businesses as well as individual consumers.
8 Today over 35,000 NAB employees serve over ten million clients at locations in Australia and
9 around the world. [REDACTED]

[REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

I. FACTUAL BACKGROUND

A.

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

[Redacted text block]

II. ARGUMENT

A. Legal Standard

The Ninth Circuit applies the four-factor *Winter* test in determining a preliminary injunction motion. See *Sierra Forest Legacy v. Rey*, 577 F.3d 1015 (9th Cir. 2009). In order to obtain injunctive relief, a plaintiff must show (1) a likelihood of success on the merits;¹ (2) that the plaintiff would suffer irreparable harm absent injunctive relief; (3) that the balance of equities tips in the Plaintiff’s favor; and (4) that an injunction is in the public interest. *Flexible Lifeline Sys., Inc. v. Precision Lift, Inc.*, 654 F.3d 989, 994 (9th Cir. 2011); *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 376-377 (2008). These elements are balanced, such that a stronger showing of one may offset a weaker showing of another. *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). Here, each element points—and points strongly—to the necessity for a preliminary injunction.

[Redacted text block]

¹If a plaintiff can only demonstrate that “serious questions going to the merits” exist (a lesser showing than likelihood of success on the merits), a preliminary injunction may still issue if the “balance of hardships tips sharply in favor of an injunction and the other two factors are met.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

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

[REDACTED]

Dated: December 6, 2016

SIDLEY AUSTIN LLP

By: /s/ Ryan M. Sandrock

Ryan M. Sandrock, SBN 251781
rsandrock@sidley.com
SIDLEY AUSTIN LLP
555 California Street
Suite 2000
San Francisco, California 94104
Telephone: +1 415 772-1200
Facsimile: +1 415 772-7400

Attorneys for Plaintiff
NATIONAL AUSTRALIA BANK LTD.