

1 COOLEY LLP
2 MICHAEL G. RHODES (116127) (rhodesmg@cooley.com)
3 WHITTY SOMVICHIAN (194463) (wsomvichian@cooley.com)
4 KYLE WONG (224021) (kwong@cooley.com)
5 101 California Street, 5th Floor
6 San Francisco, CA 94111-5800
7 Telephone: (415) 693-2000
8 Facsimile: (415) 693-2222

Attorneys for Defendant Google Inc.

6 WYLY~ROMMEL, PLLC
7 Sean F. Rommel (*Pro Hac Vice*)
8 Email: srommel@wylyrommel.com
9 4004 Texas Boulevard
10 Texarkana, Texas 75503
11 Telephone: (903) 334-8646
12 Facsimile: (903) 334-8645

11 CORY WATSON CROWDER & DEGARIS, P.C.
12 F. Jerome Tapley (*Pro Hac Vice*)
13 Email: jtapley@cwcd.com
14 2131 Magnolia Avenue
15 Birmingham, Alabama 35205
16 Telephone: (205) 328-2200
17 Facsimile: (205) 324-7896

Plaintiffs' Co-Lead Counsel

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

18
19 IN RE GOOGLE INC. GMAIL LITIGATION

Case No. 5:13-md-002430 LHK (PSG)

**STIPULATION AND [PROPOSED]
ORDER TO DEFER CASE
SCHEDULING DEADLINES
PENDING THE PARTIES'
SCHEDULED MEDIATION**

Courtroom: 8 – 4th Floor
Judge: Hon. Lucy H. Koh

1 Pursuant to Local Rules 6-1(b), 6-2, and 7-12, Plaintiffs and Defendant Google Inc.
2 (collectively, the “Parties”) hereby stipulate as follows:

3 WHEREAS, on March 4, 2014, the Court in a Case Management Order (Dkt. No. 147)
4 continued the mediation deadline from March 15, 2014 to April 24, 2014 and set a further Case
5 Management Conference for April 24, 2014;

6 WHEREAS, the Parties are scheduled to conduct a full-day mediation on April 23, 2014
7 (the “Mediation”); in connection with the mediation, the mediator has requested that the Parties
8 submit mediation briefs by April 16, 2014;

9 WHEREAS, the October 2, 2013 Minute Order and Case Management Order (Dkt. No.
10 76) sets the following case scheduling deadlines, which now fall immediately before and after the
11 Mediation: Fact Discovery Cutoff–April 3, 2014; Opening Expert Reports–April 17, 2014;
12 Rebuttal Expert Reports–May 1, 2014; and Close of Expert Discovery–May 15, 2014;

13 WHEREAS, the Parties are currently working to comply with the various deadlines set
14 forth above, including the completion of remaining written discovery and depositions per the
15 Court’s existing fact discovery deadline of April 3, 2014;

16 WHEREAS, Plaintiffs have issued subpoenas to several third parties–Cable One, Inc., the
17 University of Hawaii, and the University of the Pacific–seeking production of documents and
18 30(b)(6) deposition testimony to be completed before the current discovery deadline of April 3,
19 2014;

20 WHEREAS, on March 18, 2014, this Court denied Plaintiffs’ Motion for Class
21 Certification with prejudice (Dkt. No. 158, the “Class Certification Order”);

22 WHEREAS, in order to allow the Parties to fully consider the impact of the Class
23 Certification Order on the remaining issues in the case and to facilitate a productive Mediation on
24 April 23, the Parties have conferred and agreed to seek a short extension of intervening case
25 scheduling deadlines and a brief stay of pending discovery requests until after the Mediation so
26 that they can focus their efforts on preparing for the Mediation and a potential resolution of
27 Plaintiffs’ claims;

28 WHEREAS, this short stay of discovery will potentially relieve third parties from

1 substantial discovery costs and burdens, including the collection, review and production of
2 thousands of documents and the preparation and deposition of 30(b)(6) witnesses;

3 IT IS HEREBY STIPULATED that:

4 1. The Parties mutually request that the Court extend the pending fact discovery and
5 expert-related deadlines and defer pending discovery matters (including written discovery
6 responses and requested depositions) until after the Parties' April 23, 2014 Mediation;

7 2. In the event the Parties are unable to resolve this case at the Mediation, they will
8 meet and confer on a revised schedule to present to the Court at the currently scheduled April 24,
9 2014 Case Management Conference;

10 3. The Parties agree that the revised schedule will include a proposed revised
11 deadline to resolve the currently pending discovery matters that were timely served under the
12 existing March 4, 2014 Case Management Order (Dkt. No. 147);

13 4. Under the revised schedule, unless good cause is shown, new discovery requests
14 will not be permitted and discovery will be limited to the completion of discovery requests that
15 are currently pending as of the date of the stipulation; and

16 5. The Parties reserve all objections to all pending discovery requests.
17
18
19
20
21
22
23
24
25
26
27
28

1 IT IS SO STIPULATED, THROUGH COUNSEL.

2

3 DATED: March 20, 2014

/s/ Whitty Somvichian
Whitty Somvichian
Attorney for Defendant Google Inc.

4

5

6 DATED: March 20, 2014

/s/ F. Jerome Tapley
F. Jerome Tapley
Plaintiffs' Co-Lead Counsel

7

8 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

9

10 DATED: _____

Honorable Lucy H. Koh
United States District Judge

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

Filer's Attestation: Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, Whitty Somvichian hereby attests that concurrence in the filing of this document has been obtained.

27

28