

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

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

Plaintiffs' Co-Lead Counsel

CARTER WOLDEN CURTIS, LLP
Kirk J. Wolden (SBN 138902)
Email: kirk@cwclawfirm.com
1111 Exposition Boulevard, Suite 602
Sacramento, California 95815
Telephone: (916) 567-1111
Facsimile: (916) 567-1112

Plaintiffs' Liaison Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE GOOGLE INC. GMAIL LITIGATION

Master Docket No.: 13-MD-02430-LHK

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**DECLARATION OF MATTHEW D.
GREEN, PH.D., IN REPLY AND IN
SUPPORT OF THE CONSOLIDATED
MOTION FOR CLASS CERTIFICATION**

Date: January 16, 2014
Time: 1:30 p.m.
Judge: Hon. Lucy H. Koh
Place: Courtroom 8—4th Floor

Trial Date: October 20, 2014

Exhibit “B”

[DOCUMENT FILED UNDER SEAL]

**DECLARATION OF MATTHEW D. GREEN, Ph.D., IN REPLY AND IN SUPPORT OF
THE CONSOLIDATED MOTION FOR CLASS CERTIFICATION**
5:13-MD-002430-LHK

Clifford L. Carter, SBN 149621
Kirk J. Wolden, SBN 138902
CARTER WOLDEN CURTIS
1111 Exposition Boulevard, Suite 602
Sacramento, California 95815
Telephone: (916) 467-9488
Email: cliff@cwclawfirm.com, kirk@cwclawfirm.com

Sean F. Rommel (*Pro Hac Vice*)
James C. Wyly (*Pro Hac Vice*)
WYLY~ROMMEL, PLLC
4004 Texas Boulevard
Texarkana, Texas 75503
Telephone: (903) 334-8646, Facsimile: (903) 334-8645
Email: srommel@wylyrommel.com, jwyly@wylyrommel.com

F. Jerome Tapley (*Pro Hac Vice*)
Hirlye R. "Ryan" Lutz, III (*Pro Hac Vice*)
CORY WATSON CROWDER & DEGARIS, P.C.
2131 Magnolia Avenue
Birmingham, Alabama 35205
Telephone: (205) 328-2200; Facsimile: (205) 324-7896
Email: jtapley@cwcd.com, rlutz@cwcd.com

Attorneys for Plaintiff and the Class

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

KEITH DUNBAR, individually and on
behalf of those similarly situated,

Plaintiff,

vs.

GOOGLE, INC.,

Defendant.

Case No.: 5:12-cv-03305-LHK

**DECLARATION OF MATTHEW D.
GREEN, Ph.D., IN SUPPORT OF
PLAINTIFF'S REPLY IN SUPPORT OF
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION**

Date: April 18, 2013
Time: 1:30 p.m.
Judge: Hon. Lucy H. Koh
Location: Courtroom 5, 4th Floor

I, Matthew D. Green, Ph.D., under penalty of perjury pursuant to 28 U.S.C. § 1746,
hereby make the following Supplemental Declaration in support of Plaintiff's Notice of and
Memorandum of Points and Authorities in Support of Plaintiff's Motion for Class
Certification, and state as follows:

1 1. On January 28, 2013, I submitted a declaration in support of Mr. Dunbar's
2 Motion for Class Certification. Since that time, I have read Google's Opposition papers and
3 believe the papers mischaracterize my findings from 2011 and from my recent Declaration. In
4 addition, I am writing in response to some of the other assertions about the data flow and
5 Gmail infrastructure at issue.

6 2. I base my analysis on a review of several documents. These include all of the
7 documents mentioned in all of my previous Declarations, as well as the following:

8 Declaration of Sean Rommel in Support of Motion for Class Certification and Exhibits;
9 Excerpts from Deposition of Thompson Gawley, attached as Exhibit C to Declaration of
10 Sean Rommel in Support of Motion for Class Certification;
11 Google's Response to Plaintiff's Motion for Class Certification;
12 Declaration of Deepak Jindal in Support of Google's Response to Plaintiff's Motion for
13 Class Certification;

14 The following pages produced by Keith Dunbar:

15 Exemplar pages from DUNBAR000215-464;
16 DUNBAR000447-463;

17 The following pages produced by Google:

18 GOOG000732639-641;
19 GOOG000733365;
20 GOOG000733009-011;
21 GOOG000000562-568;
22 GOOG000733356-357;
23 GOOG000000033-44;
24 GOOG000000263;
25 GOOG000000419;
26 GOOG000707879-893;
27 GOOG000707760;
28 GOOG000707717;

1 GOOG000707752;
2 GOOG000002544;
3 GOOG000002480-89;
4 GOOG000725256-279;
5 GOOG000750171-175;
6 GOOG000749680-719;
7 GOOG000749601-602;
8 GOOG000749592-596;
9 GOOG000749588-591;
10 GOOG000749584-586;
11 GOOG000749548;
12 GOOG000749541;
13 GOOG000749537;
14 GOOG000749529;
15 GOOG000749459-462;
16 GOOG000751365-372;
17 GOOG000751347-349;
18 GOOG000751325-335;
19 GOOG000751281-302;
20 GOOG000751155-157;
21 GOOG000751132;
22 GOOG000750712-747;
23 GOOG000749413-418;
24 GOOG000737487-488;
25 GOOG000749361-364;
26 GOOG000749076-077;
27 GOOG000746292-315;
28 GOOG000765823-860;

1 GOOG000752120-156; and

2 GOOG000319256-260.

3 3. I have been asked to provide my opinion on several matters related to the
4 Motion for Class Certification and the Opposition. Specifically, the questions I have been
5 asked to consider are:

- 6 • Does internal Gmail email meta-data contain sufficient information to indicate that an
7 interception or ‘delivery scan’ was performed on a specific email?
- 8 • Does Gmail provide a uniform scanning process, despite the fact that some portions of
9 the email (*e.g.*, email attachments) are not scanned?
- 10 • Do Google documents indicate the possibility of multiple interceptions and/or scans on a
11 single email?

12 4. My opinions on these matters are informed by internal documents provided by
13 Google, as well as the interrogatory responses Google provided in the *Marquis* matter.

14 5. [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26
27
28 ¹Protocol buffers are a form of data structure developed by Google in order to handle mixed data. They are used extensively throughout the Gmail system.

[REDACTED]

Gmail processes email in a uniform manner: Mr. Deepak Jindal provides several additional notes about Google's scanning process. [REDACTED]

[REDACTED]

13. In my opinion, these facts are not relevant to the question of whether Google performs a uniform interception and scan of received emails. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 16. Possibility of multiple scans: [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

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21 Dated: March 28, 2013.

22 /s/ Matthew D. Green
Matthew D. Green, Ph.D

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