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DATE FILED: 8/6/12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE AMERICAN SOCIETY OF MEDIA :
PHOTOGRAPHERS, INC., GRAPHIC ARTISTS :
GUILD, PICTURE ARCHIVE COUNCIL OF :
AMERICA, INC., NORTH AMERICAN NATURE :
PHOTOGRAPHY ASSOCIATION, :
PROFESSIONAL PHOTOGRAPHERS OF :
AMERICA, LEIF SKOOGFORS, AL :
SATTEWHITE, MORTON BEEBE, ED KASHI, :
JOHN SCHMELZER, SIMMS TABACK, :
LELAND BOBBE, JOHN FRANCIS FICARA, :
and DAVID W. MOSER, :
on behalf of themselves and all others :
similarly situated, :

Plaintiffs, :

-against- :

GOOGLE, INC., :

Defendant. :
X

Case No. 10-CV-02977 (DC)

**STIPULATION REGARDING DEFENDANT
GOOGLE, INC.'S AFFIRMATIVE DEFENSES**

Plaintiffs The American Society of Media Photographers, Inc., Graphic Artists Guild,
Picture Archive Council of America, Inc., North American Nature Photography Association,
Professional Photographers of America, Leif Skoogfors, Al Satterwhite, Morton Beebe, Ed
Kashi, John Schmelzer, Simms Taback, Leland Bobbe, John Francis Ficara, and David W.
Moser, on behalf of themselves and all others similarly situated, ("Plaintiffs") and Defendant
Google, Inc. ("Google") hereby stipulate and agree as follows:

Plaintiffs confirm that their claims in this Action do not relate to (1) public performances of any kind; (2) public display in the course of face-to-face teaching activities; (3) public display made as part of class sessions of systematic mediated instructional activities; (4) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes; (5) secondary transmissions made by cable companies; (6) the creation of ephemeral recordings of transmissions; (6) pictures or photographs of useful articles that have been offered for sale or other distribution to the public; (7) 17 U.S.C. § 106A; (8) sound recordings; (9) musical works; (10) computer programs; (11) activities of noncommercial broadcasters; (12) activities of satellite broadcasters; (13) architectural works.

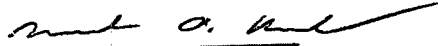
In reliance on the confirmation set forth in the previous paragraph, Google hereby withdraws the statutory defenses premised upon 17 U.S.C. §§ 110 through 120 and 122, as set forth in its Answer to First Amended Complaint, filed June 14, 2012 (Docket No. 51) ("Answer").

Further, Google agrees that should it explicitly seek discovery from Plaintiffs as to the affirmative defenses of 17 U.S.C. §§ 108 and 121, Standing (as to the Associational Plaintiffs), First Amendment, Copyright Misuse, Unclean Hands, Waiver, Estoppel, Laches, or Acquiescence, as asserted in its Answer, it will not oppose a request and/or motion by plaintiffs

seeking leave to bring a Motion to Strike the affirmative defense to which that discovery is explicitly directed at that time.

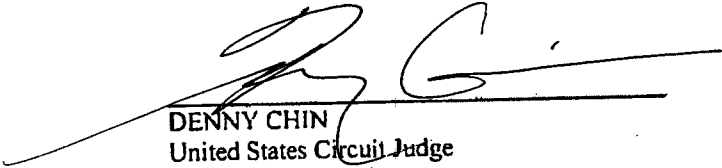


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SO ORDERED this 6th day of August 2012.



DENNY CHIN
United States Circuit Judge
Sitting by Designation