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9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 (SAN JOSE DIVISION)

11 **ALBERTO R. GONZALES, in his official)**
 12 **capacity as ATTORNEY GENERAL OF THE)**
 13 **UNITED STATES,)**

14 **Movant,**

15 v.

16 **GOOGLE INC.,**

17 **Respondent.**

) Case No. 5:06-mc-80006-JW

) **Movant’s Statement in Response**
) **to Application for Leave to File**
) ***Amicus Curiae* Brief**

) Hearing: March 14, 2006
) Time: 9:00 a.m.
)

18 The movant, Alberto R. Gonzales, in his official capacity as Attorney General of
 19 the United States, respectfully submits this statement of his position in response to the
 20 application of Andrea M. Matwyshyn, *et al.*, for leave to file an *amicus curiae* brief.
 21 (Doc. 19.) That application was filed on the same date as was the movant’s reply brief,
 22 and so movant has not previously had the opportunity to respond to it. The movant does
 23 not oppose the granting of the application.
 24

25 The *amici* also request this Court to permit further briefing. The movant
 26 respectfully opposes that suggestion, for three reasons. First, as *amici* acknowledge, the
 27 Court need not reach the issue concerning the Electronic Communications Privacy Act
 28 (ECPA) for which they seek further briefing. The movant respectfully refers the Court to

1 his prior argument concerning Google's waiver of this issue. (Reply Br. at 17.) Second,
 2 the subpoena does not violate the ECPA; the movant respectfully refers the Court to his
 3 prior arguments on this score. (Reply Br. at 17-21.) Third, delay in this Court's
 4 resolution of the motion to compel would be unwarranted. The United States District
 5 Court for the Eastern District of Pennsylvania has entered a case management order with
 6 respect to the underlying litigation that calls for the submission of expert reports by May
 7 3, 2006, and the commencement of trial on October 23, 2006. In order to accommodate
 8 this case management schedule, the defendant has respectfully requested this Court to
 9 expedite its decision on the motion to compel, and to order Google to comply within 21
 10 days of its order. (See Reply Br. at 21.)

11 Dated: March 9, 2006

Respectfully submitted,

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16 /s/
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CERTIFICATE OF SERVICE

I hereby certify that I have made service of the foregoing Movant's Statement in Response to Application for Leave to File *Amicus Curiae* Brief by depositing in Federal Express at Washington, D.C., on March 9, 2006, true, exact copies thereof, enclosed in an envelope with postage thereon prepaid, addressed to:

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