

FILED

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE,
AT NASHVILLE

2008 SEP 18 PM 3:43

RICHARD L. POLAR, CLERK

C. H. G. D.C.

DONALD R. SWARTZ and TERRY)
KELLER SWARTZ)

Plaintiffs,)

v.)

DOCKET NO. 08C431

JOHN DOE #1, JOHN DOE #2, and)
JOHN DOE #3)

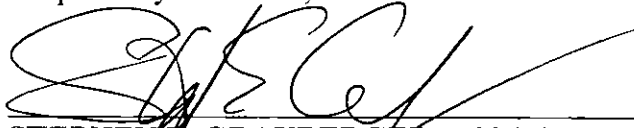
Defendants.)

SPECIAL APPEARANCE – MOTION TO QUASH SUBPOENA AND FOR
PROTECTIVE ORDER

COMES NOW the Defendant, John Doe #1, by and through special appearance of counsel for the limited purpose of this motion, and, pursuant to Tenn. R. Civ. P. 45.07, respectfully moves this Honorable Court quash the subpoena issued by Plaintiffs seeking documents, testimony and/or other information which could reveal the identity of John Doe #1 from Google, Inc., a California corporation with its principle place of business in Mountain View, California, and for a protective order preventing similar discovery in the future, on the basis that the subpoena is attempting to subvert Defendant's Constitutional right to anonymous free speech. Defendant would further show that Plaintiffs' complaint is facially defective and transparently aimed at nothing other than revealing the true identity of Defendants. In support hereof, Defendant relies upon the Memorandum of Law being filed contemporaneously herewith.

WHEREFORE, Defendant John Doe respectfully requests this Honorable Court quash the subpoena issued by Plaintiffs seeking to identify the identity of Defendant John Doe #1 and grant a protective order barring similar discovery in the future.

Respectfully submitted,



STEPHEN E. GRAUBERGER, # 23652

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2323 North Mt. Juliet Road

Mt. Juliet, TN 37122

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Attorney for Defendant

THIS MOTION IS EXPECTED TO BE HEARD ON FRIDAY, OCTOBER 24, 2008 AT 9:00 A.M.

RESPONDENT IS HEREBY NOTIFIED THAT PURSUANT TO DAVIDSON COUNTY LOCAL RULE 26.04 FAILURE TO FILE AND SERVE A TIMELY WRITTEN RESPONSE TO THIS MOTION WILL RESULT IN THE MOTION BEING GRANTED WITHOUT FURTHER HEARING.

CERTIFICATE OF SERVICE

The undersigned hereby certified that on the 18th day of September 2008, a copy of this Motion has been served upon:

Charles E. Sizemore
1000 Northchase Drive, Ste. 301
Goodlettsville, TN 37072
Attorney for Plaintiffs

and

Google, Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043
legal-support@google.com

By the method identified as follows:

- U.S. Mail, postage prepaid *SIZEMORE/GOOGLE*
- Hand Delivered
- Facsimile
- Electronic Mail *GOOGLE*



STEPHEN E. GRAUBERGER