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5
6 **IN THE UNITED STATES DISTRICT COURT**
7
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9
10 **SAN JOSE DIVISION**

11 JENNA GODDARD, on her own behalf and
12 on behalf of all others similarly situated,

Case No. C 08-2738 JF (PVT)

FIRST AMENDED COMPLAINT

13 Plaintiff,

14 v.

15 GOOGLE, INC., a Delaware corporation,

16 Defendant.

17 Jenna Goddard (“Plaintiff”), for her First Amended Complaint against Defendant
18 Google, Inc. (“Google”) alleges as follows upon information and belief, based upon, *inter*
19 *alia*, investigation conducted by and through her attorneys, except as to those allegations
20 pertaining to Plaintiff personally, which are alleged upon personal knowledge:

PARTIES

- 21 1. Jenna Goddard is a citizen of the State of New Jersey.
- 22 2. Google, Inc. is a Delaware corporation with its principal place of business in Mountain
23 View, California, and is therefore a citizen of Delaware and California. Google
24 operates the most widely used Internet search engine in the world. Google’s search
25 engine is a top Internet destination, and Google claims publicly that it maintains the
26 largest, most comprehensive index of websites and other online content.
- 27 3. Google’s primarily source of revenue is advertising, largely generated by its online
28 advertising program AdWords. Businesses purchase targeted advertising from
Google’s AdWords program to promote their products and services.

JURISDICTION

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4. On October 10, 2008, this Court found that it has subject matter jurisdiction over the causes of action asserted herein pursuant to 28 U.S.C. § 1332(d).

5. This Court has personal jurisdiction over Defendant pursuant to Code of Civil Procedure § 410.10 because Defendant resides in and conducts business in the State of California and many of Defendant’s wrongful acts arose or emanated from California.

VENUE

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the sole Defendant resides in and is subject to personal jurisdiction in this District.

CONDUCT COMPLAINED OF

7. This case arises from the ever-increasing computerization of cellular telephones. The cell phones used and owned by Plaintiff and the other class members are sophisticated electronics equipment and contain many (if not most) of the same capabilities and equipment as traditional desktop computers, as well as cellular radio signal processing technology.

8. This computerization means that most modern cellular telephones now are capable of transacting commerce in a variety of ways, including—most significantly for the present purposes—“premium” text message services. These services, also known as “mobile subscription services” and “mobile content” include products that range from the basic (customized ringtones for use with cell phones, sports score reports, weather alerts, stock tips, horoscope services, and the like) to those requiring more advanced capabilities (such as direct payment services, interactive radio, and participatory television).

9. The mobile subscription industry has grown in recent years from a small community of hobbyists and pioneers to a multi-billion dollar marketplace. This explosive growth has occurred almost entirely without regulation by the states or the Federal Government. Predictably, this new industry has become a haven for unscrupulous and deceptive operators who seek to profit unlawfully by taking advantage of unwitting

- 1 consumers through their cellular telephones.
- 2 10. Given the manner in which mobile content is billed to customers, fraud is
3 unfortunately easy to achieve and difficult to detect. Unlike transactions made using
4 checks and credit cards, which require a signature or a highly private sixteen-digit
5 credit card number, the only thing a mobile subscription service needs to charge a
6 consumer for its products is the consumer's cellular telephone number. Once a mobile
7 subscription service obtains a consumer's cell phone number, it can cause that
8 consumer to be billed for services and products irrespective of whether the consumer
9 actually agreed to purchase them and, in the process, cause text messages containing
10 "premium" content to be sent to the "subscriber's" cell phone, draining that cell phone
11 of computing resources such as data processing and storage capacity.
- 12 11. Any mobile subscription service, using only a cell phone number, can simply provide
13 that number, along with an amount to be charged, to a billing aggregator (e.g., m-
14 Qube, Inc. ("m-Qube")). The aggregator, in turn, instructs the relevant cellular carrier
15 to add the charge to the bill associated with that cell phone number. The charge then
16 appears on the consumer's cell phone bill, often with only minimal, cryptic identifying
17 information.
- 18 12. Because the anti-fraud protections normally present in consumer transactions—such as
19 signatures, receipts, and private credit card numbers—are absent from this process, the
20 likelihood of false charges increases enormously. And, because a substantial part of
21 mobile subscription "sales" are affected through websites employing fraudulent
22 methods, such as misleading, oblique, or inadequately explained pricing and consent
23 procedures, that likelihood increases by another order of magnitude.
- 24 13. Mobile subscription services have powerful financial incentives to collect as many cell
25 phone numbers as possible, but little incentive to ensure that the owners of those
26 numbers have actually agreed to purchase their goods and services. Indeed, mobile
27 subscription services go to great lengths to make their marketing material as
28 uninformative as possible about the price of services, subscription periods and

1 cancellation procedures, all in an effort to keep consumers in the dark about their
2 services' true cost.

3 **Google's Role in the Scheme to Defraud**

4 14. Google's advertising services are an essential step in the process by which mobile
5 subscription services defraud consumers. Without the ability to drive users to their
6 websites, mobile subscription services would be unable to earn virtually any revenue,
7 no matter how misleading or fraudulent their subscription services. Absent advertising
8 through Google, the fraudulent mobile subscription services would have significantly
9 fewer visitors to their websites and their illegal revenues would drop dramatically.

10 15. Google's search engine is possibly the most-visited website on Earth. Google's
11 massive base of daily users provides an enormously powerful platform for Internet
12 advertising. Google capitalizes on this enormous advertising potential, and earns the
13 majority of its revenue, through its AdWords program.

14 16. The Adwords program involves short advertisements, or "AdWords," being paired
15 with selected keywords that correspond to the advertisements. When a consumer's
16 search on Google's search engine matches, or even suggests, the advertiser's selected
17 keywords, Google displays the customer's AdWords ad as part of the result of the
18 search. Each AdWord ad, when clicked on, takes the consumer to the advertiser's
19 website.

20 17. When Google first introduced AdWords in or around 2000, Google would develop and
21 manage nearly all aspects of an advertiser's account for a set monthly fee.

22 18. Starting in 2005, Google offered advertisers in the AdWords program a service called
23 "Jumpstart," which managed and assisted advertisers in setting up their particular
24 AdWords campaigns. For a flat fee of \$299, a Google specialist would draft
25 advertisements, choose keywords, and set cost per click budgets.

26 19. The implementation of an AdWords campaign has been, and remains, a collaborative
27 effort between Google and those who use Google's advertising services since the
28 inception of the AdWords program in or about 2000. Although the level of Google's

1 involvement has varied throughout the life of its AdWords program, Google’s conduct
2 not only encourages illegal content to be created but, in addition, effectively requires
3 advertisers to engage in illegal conduct.

4 20. On information and belief, when an advertiser’s AdWords purchases exceeds a certain
5 dollar amount, Google will participate in in-person meetings with such advertisers—
6 and has met with companies described in this Amended Complaint—in order to
7 provide tailored advice on how best to optimize their use of AdWords, including
8 proposing ad budgets, selecting keywords and designing ad copy.

9 21. Google’s involvement in the advertising process for the mobile content industry was
10 especially pronounced. Indeed, Google’s involvement was so pervasive that the
11 company controlled much of the underlying commercial activity engaged in by the
12 third-party advertisers. Google creates algorithms, known as “suggestion tools,” for
13 use by advertisers and consumers alike. These algorithms control and determine the
14 results given to its advertisers and to consumers for any search conducted through the
15 use of Google’s search engine. Through the use (and manipulation) of these
16 algorithms, Google not only encourages illegal conduct, it collaborates in the
17 development of the illegal content and, effectively, requires its advertiser customers to
18 engage in it.

19 22. Such algorithms, written to maximize Google’s financial interests, will “suggest”
20 specific keywords to advertisers using its AdWords program that enter words or
21 phrases describing the good or service advertised, or by simply entering the website to
22 be promoted. In most industries, this is an innocuous exercise that generally benefits
23 all parties. However, in an industry as susceptible to fraudulent transactions as the
24 mobile content industry, certain keywords, such as those that contain the word “free,”
25 are well known to induce consumers into unwittingly signing up for services even
26 when such services are not free.

27 23. As evidenced by Google’s opposition papers to Plaintiff’s Motion to Remand, one
28 search term, or “keyword,” that is particularly relevant to the mobile content industry

1 as well as the instant litigation is “ringtone,” as it accounts for a disproportionate
2 amount of all mobile content sales. When an advertiser enters the keyword “ringtone”
3 into Google’s AdWords, Google unilaterally provides alternate keyword “ideas”
4 through its “Keyword Tool;” keyword ideas that will trigger the appearance of the
5 relevant advertisement if selected by the advertiser. Two of the top five (including the
6 overwhelmingly dominant first suggestion) and fully half of the top ten most
7 suggested keywords Google provides to advertisers who have indicated a desire to
8 purchase the search term “ringtone” contain the word “free.” [See attached Exhibit A].

- 9 24. Google suggests the same terms to consumers using its search engine. When
10 consumers enter the search term “ringtone” on Google.com, Google automatically
11 suggests alternative variations of the term “ringtone,” several of which contain the
12 word “free,” such as “ringtones free” and “ringtones free download.” [See attached
13 Exhibit B]. In addition, when consumers enter the search term “free,” or even the
14 letters “fr,” one of Google’s top automatic “suggestions” is “free ringtones.” [See
15 attached Exhibit C]. Such suggestions are so influential that the clear majority of all
16 search volume on Google associated with the word “ringtone” also is associated with
17 the word “free.” [See attached Exhibit D].
- 18 25. These keyword suggestions or “ideas,” under most circumstances, are typically
19 utilized only at the discretion of the advertiser. However, for mobile content
20 advertisers, of whom almost none provide genuinely “free” products and services
21 whatsoever, the choice to disregard Google’s keyword suggestions that contain the
22 word “free”—even when such advertisers affirmatively know that the advertised
23 products are not free—means that such advertisers must forego advertising on as much
24 as two-thirds of all “ringtone” searches on Google.
- 25 26. Foregoing such an overwhelming percentage of the search market necessarily means
26 dramatically reduced revenue for any mobile content advertiser, if not a complete exit
27 altogether from that business. Consequently, mobile content advertisers accepted
28 Google’s “ideas” to include the keyword “free” along with the keyword “ringtone” in

- 1 order to advertise to the majority of “ringtone” searches even if their products are not
2 free. The resulting effect of these misleading advertisements was that fraudulent
3 mobile content advertising flooded the Internet, leading to certain of Google’s top ten
4 largest buyers of its advertising services being subjected to government investigation.
5 (See Office of Attorney General, State of Florida, Assurance of Voluntary Compliance
6 Azoogles Ads US, Inc. a/k/a Epic Advertising, Inc. attached as Exhibit E).
- 7 27. Google’s tolerance towards such misleading advertising is unusual. Because certain
8 products and services are illegal or deemed by Google to be commercially
9 unacceptable, Google has voluntarily compiled a list of products and services (ranging
10 from anabolic steroids to weapons) it does not allow to be advertised on the Google
11 website under virtually any circumstances.
- 12 28. Of the approximately 30 categories of banned products and services on this list, called
13 a “Content Policy,” Google created an exception for mobile subscription services.
14 This extraordinary exception allows mobile subscription services to continue to
15 advertise on Google if they comply with one condition: conform the content of their
16 website (i.e., the landing page linked to such services’ advertisements on Google) so
17 as to clearly and accurately disclose a host of highly relevant information to consumers
18 about purchasing mobile content, such as the service’s price, subscription period and
19 cancellation procedures.
- 20 29. Google knows mobile subscription services are loathe to provide this information for
21 fear of scaring off potential customers, so Google set up a procedure, memorialized in
22 contract and made known to the public on its website, to enforce this policy by
23 disallowing advertisements for mobile subscription services that link to non-compliant
24 websites. Unfortunately for consumers, Google has systematically failed to enforce
25 this policy or live up to its contractual obligations, irrespective of its public
26 pronouncements to do so, opting instead to actively participate in the development of
27 AdWords campaigns deceptively advertising and sale of mobile content.
- 28 30. Google is well aware of the magnitude of problems regarding informed authorization

1 from cellular phone subscribers that plague the mobile content industry. Google is
2 keenly aware that mobile subscription services frequently do not disclose their billing
3 terms and conditions clearly to cellular telephone users and often fail to obtain any
4 authorization from cellular phone users whatsoever. One of Google's largest mobile
5 content advertiser customers, Azoogleads US, Inc. d/b/a Azoogle ("Azoogle"),
6 recently settled claims brought against it by the Office of the Attorney General of the
7 State of Florida for deceptively marketing mobile subscription services on Google and
8 other search engines.

9 31. Google's awareness of these industry-wide problems is reflected in its contract with its
10 advertiser customers (called the "Advertising Program Terms," attached hereto as
11 Exhibit F), including purveyors of mobile content. Google's Editorial Guidelines are
12 incorporated by reference into its Advertising Program Terms:

13 Google and Customer hereby agree and acknowledge:
14 1. Policies. Program use is subject to all applicable Google
15 and Partner policies, including without limitation the Editorial
16 Guidelines (adwords.google.com/select/guidelines.html),

17 *Google, Inc. Advertising Program Terms* (Aug. 22, 2006).

18 32. In turn, the Editorial Guidelines include Google's Content Policy, which contains
19 language specifically relating to "Mobile Subscription Services:"

20 We allow the advertisement of mobile subscription services only when the site
21 clearly and accurately displays price, subscription, and cancellation
22 information. This includes, but is not limited to, sites that promote
23 downloading ringtones, wallpaper, or text messages for predictions, love life
24 advice, news, personality quizzes, and/or other entertainment services.

25 If your site promotes mobile subscription services and requires users to enter
26 personal information such as names or phone numbers, your site must meet the
27 following criteria:

28 1. Prominently display these details on the page where users first enter
personal information (such as a name or phone number):

- * The identification of your service as a subscription
- * The price of the service
- * The billing interval (such as per week or once per month)

2. On the first page where users enter personal data, provide a prominent
opt-in checkbox or other clear mechanism indicating that the user knowingly
accepts the price and subscription service. The user should not be able to
proceed without opting in.

1 3. Clearly display cancellation information (or a clearly marked link to
2 cancellation instructions) on your ad's landing page, the first page of your site
3 users see after clicking on your ad.

4 All of the items above should be located in a prominent place on your webpage
5 and should be easy to find, read, and understand.

6 *Google, Inc. Content Policy* (2008).

7 33. Beyond the legal enforceability conferred on these words by contract, these statements
8 in its Content Policy amount to public representations by Google of the accuracy and
9 clarity of pricing, subscription, and cancellation information that Google users can
10 expect to find on third-party websites linked to AdWords advertisements for mobile
11 subscription services.

12 34. Google's failure to independently enforce its Content Policy, despite public
13 pronouncements to do so, goes beyond a mere lapse in ministerial or editorial function.
14 Rather, it amounts to a material breach of an express contract to monitor content
15 appearing on a specific group of websites owned and operated by third-parties that has
16 led directly to damages of an untold magnitude.

17 35. Moreover, prior to displaying those AdWords ads, Google routinely scans or
18 downloads the landing pages of the websites that link to advertisements on the Google
19 website, as providing the webpage is a prerequisite to the publication of an ad.
20 Consequently, Google knows (or consciously avoids knowing) whether a particular
21 landing page complies with its Content Policy.

22 36. Driven by financial motivations, Google intentionally refuses to enforce its Content
23 Policy with respect to mobile subscription services. Google intentionally misleads
24 consumers by making public representations that it will not allow advertising for
25 mobile subscription services which do not "clearly and accurately" disclose relevant
26 pricing and related information, while at the same time allowing such advertising to
27 regularly appear on its website.

28 37. Google's failure to enforce its Content Policy stands in stark contrast to other
 advertising restrictions in Google's Content Policy— such as the prohibition on
 advertising for gambling—which Google does enforce (though apparently only

1 because it felt pressure to do so after a separate lawsuit was filed against it).

2 38. Google derives significant sums of money from mobile subscription services which
3 advertise through Google.

4 39. On information and belief, a portion of Google's top 250 AdWords customers who are
5 mobile content purveyors utilize landing pages that are not in compliance with
6 Google's Advertising Program Terms ("Fraudulent Mobile Subscription Services,"
7 discussed below). Google continues to provide the Fraudulent Mobile Subscription
8 Services advertising under the AdWords program and continues to receive and retain
9 advertising revenue from them, despite knowing (or consciously avoiding knowledge)
10 that 1) their websites do not comply with its Content Policy, 2) they earn all or
11 virtually all of their revenue through unauthorized mobile content charges to cellular
12 telephone accounts, and 3) many of the consumers victimized by these Fraudulent
13 Mobile Subscription Services found the websites using Google's search engine.

14 **Google's Motivations for Prohibiting Mobile Subscription Fraud**

15 40. Google's advertising expressly guarantees that its mobile subscription advertisements
16 will be non-deceptive for two relevant reasons.

17 41. First, Google attempts to create the appearance that its search engine is protecting
18 users' interests, in order to gain and maintain the trust of consumers.

19 42. Second, Google hopes to lull governmental agencies into falsely believing that Google
20 is acting responsibly to prevent rampant fraud and abuse, which Google is in the
21 unique position of either allowing to continue (and reaping vast ill-gotten financial
22 gain for doing so) or ending almost completely.

23 **The Facts Relating To The Named Plaintiff**

24 43. In or about 2000, Plaintiff purchased new cell phone service for her personal use.

25 44. Upon renewing her cell phone service in or about 2007, Plaintiff agreed to pay her
26 wireless carrier a set monthly fee for a period of about 24 months.

27 45. In or about December 2007, Plaintiff visited the Google website to find a ringtone
28 provider. Plaintiff entered the keyword "ringtone" and similar variants into the Google

1 search engine and clicked on one or more of the AdWords advertisements appearing
2 along the search results.

3 46. After clicking on the AdWords, Plaintiff was taken to Fraudulent Mobile Subscription
4 Services websites, such as those attached as Exhibit G, which failed to display the
5 required information pursuant to Google's Advertising Program Terms.

6 47. Plaintiff entered her cell phone number on one or more of such websites, which
7 represented the terms of such mobile content as free, complimentary or otherwise
8 deceptively unclear. Shortly thereafter, Plaintiff's cell phone account was charged by
9 one or more of such purveyors of mobile subscription services and their agents,
10 including m-Qube, for unwanted mobile content services in the form of "premium"
11 text messages.

12 48. At no time did Plaintiff authorize the purchase of these products and services, and at
13 no time did Plaintiff consent to such purveyors or their agents sending text messages
14 to her cellular telephone.

15 49. During the relevant time period, m-Qube and other billing agents of mobile content
16 purveyors caused Plaintiff to be charged service fees, which Plaintiff paid, in amounts
17 not less than \$9.99 for such mobile content subscription services.

18 **Class Certification Allegations**

19 50. Plaintiff seeks certification of a Class under both Federal Rule of Civil Procedure Rule
20 23(b)(2) and Rule 23(b)(3).

21 51. Pursuant to Federal Rule of Civil Procedure 23, Goddard brings this action on behalf
22 of herself and all other similarly situated people as members of a Class, as defined as
23 follows: All persons or entities who suffered damages as a result of clicking on a
24 Google AdWords advertisement for mobile subscription services which linked to a
25 Fraudulent Mobile Subscription Services website.

26 52. **Class Numerosity:** On information and belief, the Class consists of at least one
27 thousand individuals and other entities, making joinder impractical, in satisfaction of
28 Fed R. Civ. P. 23.

1 53. **Class Commonality:** Common questions of fact and law exist as to all Class members
2 and predominate over the questions affecting only individual Class members. These
3 common questions include:

- 4 (a) Whether Class members are third party beneficiaries of the
5 Content Policy incorporated into Google's Advertising Terms;
- 6 (b) Whether Google breached its own Advertising Terms by
7 allowing the Fraudulent Mobile Subscription Services to
8 continue to use the AdWords program;
- 9 (c) Whether Google undertook a duty to protect Class members
10 from misleading landing pages used by the Fraudulent Mobile
11 Subscription Services;
- 12 (d) Whether Google breached its duty to protect Class members
13 from misleading landing pages used by the Fraudulent Mobile
14 Subscription Services;
- 15 (e) Whether these practices violate the Computer Fraud and Abuse
16 Act (18 U.S.C. § 1030);
- 17 (f) Whether Google aided and abetted the commission of fraud and
18 trespass to chattels by the Fraudulent Mobile Subscription
19 Services;
- 20 (g) Whether Google knew about the practices and income of the
21 Fraudulent Mobile Subscription Services;
- 22 (h) Whether Google consciously avoided knowing about the
23 practices and income of the Fraudulent Mobile Subscription
24 Services; and
- 25 (i) Whether Plaintiff and the Class are entitled to relief, and the
26 nature of such relief.

27 54. **Class Typicality:** Plaintiff's claims are typical of the claims of other Class members.
28 The wrongful conduct of Defendant threatens the Plaintiff and other Class members
with the same injury and/or damages arising out of and based upon the same
transactions, made uniformly to the Plaintiff and the public.

55. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect
the interests of the other Class members, and has retained counsel competent and
experienced in complex class actions generally and class actions specifically involving
the instant subject matter. Plaintiff has no interest antagonistic to those of the Class,
and Defendant has no defenses unique to Plaintiff.

- 1 56. **Predominance and Superiority:** This class action is appropriate for certification
2 because class proceedings are superior to all other available methods for the fair and
3 efficient adjudication of this controversy, since joinder of all members is
4 impracticable. The damages suffered by each individual Class member will likely be
5 relatively small, especially given the burden and expense of individual prosecution of
6 the complex litigation necessitated by the actions of Defendant. It would be virtually
7 impossible for the Class members to individually obtain effective relief from the
8 misconduct of Defendant. Even if members of the Class themselves could sustain such
9 individual litigation, it would still not be preferable to a class action, because
10 individual litigation would increase the delay and expense to all parties due to the
11 complex legal and factual controversies presented in this Complaint. By contrast, a
12 class action presents far fewer management difficulties and provides the benefits of
13 single adjudication, economy of scale, and comprehensive supervision by a single
14 Court. Economies of time, effort, and expense will be fostered and uniformity of
15 decisions will be ensured.
- 16 57. **Policies Generally Applicable to the Class:** This class action is also appropriate for
17 certification because Defendant has acted or refused to act on grounds generally
18 applicable to the Class, thereby making appropriate final injunctive relief or
19 corresponding declaratory relief with respect to the Class as a whole. Defendant's
20 policies challenged herein apply and affect the Class uniformly, and Plaintiff's
21 challenge of these policies hinges on Defendant's conduct, not on facts or law
22 applicable only to Plaintiff.

23 **Count I: Violation of the California Unfair Competition Law**

- 24 58. Plaintiff incorporates by reference and realleges all paragraphs previously alleged
25 herein.
- 26 59. The cellular phones used and owned by Plaintiff and the other Class members are
27 sophisticated electronics equipment and contain many (if not most) of the same
28 capabilities and equipment as traditional desktop computers, as well as cellular radio

1 signal processing technology. These cellular phones are computers under the definition
2 of 18 U.S.C. § 1030(e)(1). Further, these cellular phones are used in interstate or
3 foreign commerce and communication, and are protected computers under the
4 definition of 18 U.S.C. § 1030(e)(1).

5 60. The delivery of SMS (or “Short Message Service”) messages to cellular telephones is
6 performed according to industry standards. The technical protocols of these standards
7 require that transmission of mobile subscription to a cellular phone (and the
8 subsequent billing of that account) is not complete until the cellular phone transmits a
9 confirmation signal. Thus, the unauthorized charges to phone numbers attributable to
10 mobile subscription services require interactivity and access to the cellular phones of
11 Plaintiff and the other Class members.

12 61. The Fraudulent Mobile Subscription Services so accessed the cellular phones of
13 Plaintiff and the other Class members with the intent to defraud them out of the
14 services’ unauthorized charges, the access furthered that fraud, and the mobile
15 subscription services obtained payment of the charges through this fraud.

16 62. In addition and/or in the alternative, the Fraudulent Mobile Subscription Services’
17 unauthorized charges damaged the cellular phones and cellular services of Plaintiff
18 and the other Class members. If the Fraudulent Mobile Subscription Services’
19 unauthorized charges are not paid eventually, the cellular carriers will discontinue all
20 services (including cellular service) to the affected cellular accounts. Because Class
21 members must pay additional fees to maintain their cellular service, these charges
22 impair the availability of Class members’ access to and communication with their
23 cellular service. Consequently, the Fraudulent Mobile Subscription Services’ charges
24 constitute “damage” under the definition of 18 U.S.C. § 1030(e)(8) and payment of
25 these charges constitutes “loss” under the definition of 18 U.S.C. § 1030(e)(11).

26 63. The unauthorized charges alleged in this Amended Complaint have caused Class
27 members, collectively over the last year, to pay more than \$5,000 in additional fees to
28 their cellular carriers to maintain their cellular service.

- 1 64. Thus, the Fraudulent Mobile Subscription Services' acts alleged above violate 18
2 U.S.C. § 1030(a)(4) and/or 18 U.S.C. § 1030(a)(5)(B). Moreover, the Fraudulent
3 Mobile Subscription Services derive all or substantially all of their revenue through
4 such violations. Hence, all or substantially all revenue of the Fraudulent Mobile
5 Subscription Services (and consequently any funds paid by the Fraudulent Mobile
6 Subscription Services) are derived from a "specified unlawful activity," as that term is
7 defined in 18 U.S.C. § 1957(f)(3) and 18 U.S.C. § 1956(c)(7).
- 8 65. The Fraudulent Mobile Subscription Services pay Google for its AdWords services.
9 On information and belief, this payment is made to a depository account held by
10 Google at one or more "financial institutions" as that term is defined in 31 U.S.C. §
11 5312(a). On information and belief, many if not all of the Fraudulent Mobile
12 Subscription Services have paid Google for its AdWords services well in excess of
13 \$10,000. Moreover, Google bills each of the Fraudulent Mobile Subscription Services
14 for the AdWord services they use on a monthly or other periodic basis. On information
15 and belief, many if not all of the Fraudulent Mobile Subscription Services monthly or
16 periodic payments to Google for the AdWords services exceed \$10,000.
- 17 66. Google knows (or consciously avoids knowing) that the Fraudulent Mobile
18 Subscription Services derive all or substantially all of their revenue through
19 unauthorized charges to users' cellular telephone accounts and therefore, all or
20 substantially all funds from the Fraudulent Mobile Subscription Services necessarily
21 represented criminally derived property. Further, Google substantially participates in
22 the creation of AdWords ads, their associated keywords, and in driving end consumers
23 to pages operated by the Fraudulent Mobile Subscription Services.
- 24 67. Google violates 18 U.S.C. § 1957(a) by accepting payment from the Fraudulent
25 Mobile Subscription Services for AdWords through a financial institution, when it
26 knows that such payment represents criminally derived property, and such payment in
27 fact represents the proceeds of a specified unlawful act.
- 28 68. By reason of its violation of 18 U.S.C. § 1957(a), Google's acceptance of payment

1 from the Fraudulent Mobile Subscription Services is an unlawful business practice and
2 constitutes unfair competition under Cal. Bus. & Prof. Code § 17200.

3 69. Plaintiff and the other Class members have been damaged by this UCL violation because
4 they have ultimately paid additional fees to maintain their cellular services they would not
5 have had to pay if the Fraudulent Mobile Subscription Services had not placed
6 unauthorized charges on their cellular accounts. Absent Google's provision of AdWords
7 services to the Fraudulent Mobile Subscription Services, the Class members would never
8 have been damaged by the Fraudulent Mobile Subscription Services. Absent Google's
9 knowing violation of 18 U.S.C. § 1957(a), it would have never provided AdWords services
10 to the Fraudulent Mobile Subscription Services, and Class members would never have
11 provided their personal information to the Fraudulent Mobile Subscription Services
12 (enabling them to place the unauthorized charges).

13 70. Plaintiff, on her own behalf and behalf of the other Class members, seeks an order
14 enjoining Google's unfair competition alleged herein, and restitution of property
15 gained by such unfair competition under the UCL (Cal. Bus. & Prof. Code § 17203),
16 as well as interest and attorney's fees and costs pursuant to Cal. Code Civ. Proc. §
17 1021.5.

18 **Count II: Breach of Contract**

19 71. Plaintiff incorporates by reference and realleges all paragraphs previously alleged
20 herein.

21 72. The Content Policy incorporated into Google's Advertising Terms is a contract
22 between Google and the Fraudulent Mobile Subscription Services.

23 73. Plaintiff and the other Class members are the intended third-party beneficiaries of the
24 contract. The intent to benefit Plaintiff and the class members is shown by the mutual
25 obligations under the Content Policy alleged in Paragraphs 21 and 22. The Fraudulent
26 Mobile Subscription Services understood that the Content Policy relating to mobile
27 subscription services was intended to protect Google users who were also cellular
28 subscribers from unauthorized and inadequately disclosed charges.

1 74. The Fraudulent Mobile Subscription Services' landing pages do not comply with the
2 Content Policy. Google breached its obligations, as alleged in Paragraphs 21 and 22, to
3 only allow advertising that complied with the Content Policy. Further, Google
4 substantially participates in the creation of AdWords ads, their associated keywords,
5 and in driving end consumers to pages operated by the Fraudulent Mobile Subscription
6 Services.

7 75. Plaintiff and the other Class members have been damaged by Google's breach of the
8 Content Policy because they have ultimately paid additional fees to maintain their cellular
9 services they would not have had to pay if the Fraudulent Mobile Subscription Services had
10 not placed unauthorized charges on their cellular accounts. Absent Google's provision of
11 AdWords services to the Fraudulent Mobile Subscription Services, the Class members
12 would never have been damaged by the Fraudulent Mobile Subscription Services. Absent
13 Google's breach of the Content Policy, it would never have displayed AdWords ad or
14 associated keywords for the Fraudulent Mobile Subscription Services' misleading landing
15 pages, and Class members would never have provided their personal information to the
16 Fraudulent Mobile Subscription Services (enabling them to place the unauthorized
17 charges).

18 76. Plaintiff, on her own behalf and behalf of the other Class members, seeks damages for
19 Google's breach of contract.

20 **Count III: Negligence**

21 77. Plaintiff incorporates by reference and realleges all paragraphs previously alleged
22 herein.

23 78. Under the common law of California, Google had a duty to Class members because it
24 voluntarily undertook to protect them from unauthorized charges by the Fraudulent Mobile
25 Subscription Services. When it formulated, published, and enforced its Content Policy,
26 Google expressed an intent to protect Class members from misleading landing pages used
27 by mobile subscription services. When Google collaborated in the creation of—and sold
28 AdWords to—the Fraudulent Mobile Subscription Services, the assistance and ultimate

1 transaction was intended to influence Class members' mobile subscription purchasing
2 decisions.

3 79. The risk that Google's AdWords would provide advertising for mobile subscription
4 services that made unauthorized and inadequately disclosed charges to Google users'
5 cellular subscription accounts was foreseeable. Google voluntarily undertook a duty to
6 limit and prevent that risk when it adopted the provisions of its Content Policy relating to
7 mobile subscription services.

8 80. Google breached that duty when it permitted the Fraudulent Mobile Subscription Services
9 to advertise through its AdWords program and aided in the creation or development of the
10 AdWords ads, associated keywords, or in driving end consumers to such ads through its
11 search engine.

12 81. Plaintiff and the other Class members have been damaged by Google's breach of its duty
13 because they have ultimately paid additional fees to maintain their cellular services they
14 would not have had to pay if the Fraudulent Mobile Subscription Services had not placed
15 unauthorized charges on their cellular accounts. Absent Google's provision of AdWords
16 services to the Fraudulent Mobile Subscription Services, the Class members would never
17 have been damaged by the Fraudulent Mobile Subscription Services. Absent Google's
18 breach of its Content Policy, it would have never displayed AdWords for the Fraudulent
19 Mobile Subscription Services' misleading landing pages, and Class members would never
20 have provided their personal information to the Fraudulent Mobile Subscription Services
21 (enabling them to place the unauthorized charges).

22 82. Plaintiff, on her own behalf and behalf of the other Class members, seeks damages for
23 Google's negligence.

24 **Count IV: Aiding and Abetting**

25 83. Plaintiff incorporates by reference and realleges all paragraphs previously alleged
26 herein.

27 84. **Trespass to Chattels:** The Fraudulent Mobile Subscription Services intentionally and
28 without informed consent, gained access to the cellular phones of Plaintiff and the

1 other members of the Class, used these phones, occupied their memory, and disrupted
2 the service for these phones.

3 85. The actions of the Fraudulent Mobile Subscription Services alleged herein imposed an
4 additional marginal cost on Plaintiff and the other members of the Class's operation
5 and use of their cellular phones. The Fraudulent Mobile Subscription Services
6 interfered with Plaintiff and the members of Class's unencumbered use of their cellular
7 phones. The function and operation of the cellular phones of Plaintiff and the other
8 members of the Class was impaired by the unauthorized mobile content and
9 corresponding charges placed on the cellular accounts of Plaintiff and the other
10 members of the Class by the Fraudulent Mobile Subscription Services.

11 86. **Violation of the CFAA:** As alleged above, the Fraudulent Mobile Subscription
12 Services violated the CFAA and damaged Plaintiff and the other members of the
13 Class.

14 87. **Violation of the UCL:** The Fraudulent Mobile Subscription Services made misleading
15 statements which reasonably led Plaintiff to believe that she would not be charged if
16 she provided her cellular phone number. Specifically, the Fraudulent Mobile
17 Subscription Services, and their agents including m-Qube, failed to clearly and
18 accurately disclose the price, subscription period and cancellation procedure of their
19 services and that Plaintiff would be charged for such mobile content services. The
20 other Fraudulent Mobile Subscription Services made similar misrepresentations to
21 other members of the Class.

22 88. Plaintiff and the other members of the Class were damaged because they relied on the
23 misrepresentations by the Fraudulent Mobile Subscription Services. Specifically,
24 Plaintiff and the other members of the Class paid more to maintain their cellular
25 service than they would have otherwise paid, because of the unauthorized charges by
26 the Fraudulent Mobile Subscription Services.

27 89. The actions of the Fraudulent Mobile Subscription Services are unlawful and
28 fraudulent business acts or practices and constitute unfair competition under Cal. Bus.

1 & Prof. Code § 17200.

2 90. **Google's Knowledge:** As alleged above, the ordinary operation of the AdWords
3 program gave Google ample opportunities to discovery that the acts of the Fraudulent
4 Mobile Subscription Services were tortious, as alleged above. Google actually did
5 learn and know that the Fraudulent Mobile Subscription Services committed the acts
6 alleged above, and that such acts were tortious.

7 91. **Google's Assistance:** Despite its knowledge of the Fraudulent Mobile Subscription
8 Services' tortious acts alleged above, Google continued to supply advertising to the
9 Fraudulent Mobile Subscription Services through the AdWords advertising service.
10 Further, Google substantially participates in the creation of AdWords ads, their
11 associated keywords, and in driving end consumers to pages operated by the
12 Fraudulent Mobile Subscription Services. This advertising was an essential part of the
13 Fraudulent Mobile Subscription Services' scheme, because they could not collect
14 unwitting users' cellular numbers without Google driving Internet traffic towards their
15 landing pages.

16 92. Under 18 U.S.C. § 1957(a) and/or Cal. Bus. & Prof. Code § 17200, Google had a
17 separate and independent legal duty not to exchange advertising for funds it knew the
18 Fraudulent Mobile Subscription Services had derived through the criminal and tortious
19 acts alleged in this Complaint.

20 93. As a direct and proximate result of the aiding and abetting of these acts, Plaintiff and
21 the other members of the Class have suffered injury, damage, loss, and harm,
22 including, but not limited to, losses for payment of unauthorized mobile subscription
23 charges appearing on their cellular telephone bills and for consumed computing
24 services of their cellular telephones, including computer time, data processing, and
25 storage capacity required to receive such unauthorized services. The wrongful conduct
26 Google aided and abetted was a substantial factor in causing this harm.

27 94. Google's aiding and abetting of these wrongful acts was willful, oppressive, and in
28 conscious disregard of Plaintiff's rights in contract, and Plaintiff is therefore entitled to

1 the disgorgement of gains Google received for marketing tortuous mobile subscription
2 services.

3 WHEREFORE, Plaintiff prays that the Court enter judgment and orders in her favor
4 and against Defendant as follows:

- 5 (a) An order certifying the Class, directing that this case proceed as
6 a class action, and appointing Plaintiff and her counsel to
7 represent the Class;
- 8 (b) Equitable and injunctive relief against Defendant, including a
9 constructive trust, an accounting, and an injunction prohibiting
10 the continued unlawful business practices alleged in Count I;
- 11 (c) Damages;
- 12 (d) Restitution and disgorgement of all ill-gotten gains unjustly
13 obtained and retained by Defendant through acts complained of
14 herein;
- 15 (e) An order granting reasonable attorneys' fees and costs, as well
16 as pre and post-judgment interest at the maximum legal rate; and
- 17 (f) Such other and further relief as this Court may deem
18 appropriate.

19 Dated: January 16, 2009

20 By: /s/ Alan Himmelfarb

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Exhibit A



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Keyword Tool

Use the Keyword Tool to get new keyword ideas. Select an option below to enter a few descriptive words or phrases, or type in your website's URL. [Keyword Tool Tips](#)

Important note: We cannot guarantee that these keywords will improve your campaign performance. We reserve the right to disapprove any keywords you add. You are responsible for the keywords you select and for ensuring that your use of the keywords does not violate any applicable laws.

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Results are tailored to **English, United States** [Edit](#)

How would you like to generate keyword ideas?

Descriptive words or phrases
(e.g. green tea)

Website content
(e.g. www.example.com/product?id=74893)

Enter one keyword or phrase per line:

ringtone

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Selected Keywords:

Click 'Sign up with these keywords' when you're finished. We'll remember your keyword list when you create your first campaign.

No keywords added yet

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Calculate estimates using a different maximum CPC bid: Choose columns to display: [?](#)

US Dollars (USD \$)

[Recalculate](#) [?](#)

Show/hide columns [?](#)

Show/hide columns

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: ?
Keywords related to term(s) entered - sort by relevance ?						
[free ringtones]	1 - 3	\$2.27	2,240,000		Feb	Add Exact ?
[ringtones]	1 - 3	\$2.12	823,000		Aug	Add Exact ?
[ringtone]	1 - 3	\$1.57	246,000		Jul	Add Exact ?
[free ringtone]	1 - 3	\$1.68	201,000		Sep	Add Exact ?
[download ringtones]	1 - 3	\$2.21	60,500		Jan	Add Exact ?
[free mp3 ringtones]	1 - 3	\$1.62	49,500		Nov	Add Exact ?
[cell phone ringtone]	1 - 3	\$1.88	40,500		Jan	Add Exact ?
[ringtone maker]	1 - 3	\$1.22	40,500		Sep	Add Exact ?
[download free ringtones]	1 - 3	\$1.86	33,100		Jul	Add Exact ?
[mosquito ringtone]	1 - 3	\$2.16	27,100		Oct	Add Exact ?
[free ringtone downloads]	1 - 3	\$2.02	22,200		Oct	Add Exact ?
[free music ringtones]	1 - 3	\$1.79	18,100		Jul	Add Exact ?
[funny ringtones]	1 - 3	\$1.54	18,100		Jul	Add Exact ?

[Sign up with these keywords](#)

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[mobile ringtone]	1 - 3	\$1.95	18,100		Jan	Add Exact
[cell phone ringtones]	1 - 3	\$2.09	14,800		Nov	Add Exact
[free cell phone ringtones]	1 - 3	\$2.00	14,800		Jan	Add Exact
[free mobile ringtones]	1 - 3	\$1.85	14,800		Jul	Add Exact
[hot ringtones]	1 - 3	\$1.87	14,800		Dec	Add Exact
[nextel ringtones]	1 - 3	\$2.43	12,100		Feb	Add Exact
[polyphonic ringtones]	1 - 3	\$1.76	12,100		Dec	Add Exact
[ringtones for cell phones]	1 - 3	\$2.22	12,100		May	Add Exact
[ringtones for free]	1 - 3	\$2.30	12,100		Mar	Add Exact
[download ringtone]	1 - 3	\$1.48	9,900		Nov	Add Exact
[free real ringtones]	1 - 3	\$1.81	9,900		Dec	Add Exact
[make ringtones]	1 - 3	\$1.37	9,900		Sep	Add Exact
[mobile ringtones]	1 - 3	\$2.12	9,900		Feb	Add Exact
[music ringtones]	1 - 3	\$1.86	9,900		Jan	Add Exact
[ringtone converter]	1 - 3	\$1.03	9,900		Jan	Add Exact
[ringtone creator]	1 - 3	\$1.13	9,900		Jan	Add Exact
[t mobile ringtones]	1 - 3	\$2.59	9,900		May	Add Exact
[free t mobile ringtones]	1 - 3	\$2.10	8,100		Jul	Add Exact
[get free ringtones]	1 - 3	\$1.89	8,100		Oct	Add Exact
[polyphonic ringtone]	1 - 3	\$1.65	8,100		Jan	Add Exact
[ringtones com]	1 - 3	\$2.08	8,100		Aug	Add Exact
[tmobile ringtones]	1 - 3	\$2.34	8,100		Mar	Add Exact
[downloadable ringtones]	1 - 3	\$1.80	6,600		Feb	Add Exact
[free downloadable ringtones]	1 - 3	\$1.81	6,600		Aug	Add Exact
[free nextel ringtones]	1 - 3	\$1.73	6,600		Apr	Add Exact
[free polyphonic ringtones]	1 - 3	\$1.58	6,600		Dec	Add Exact
[mp3 ringtone]	1 - 3	\$1.23	6,600		Jan	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[real ringtones]	1 - 3	\$1.89	6,600		Oct	Add Exact
[ringtone software]	1 - 3	\$1.27	6,600		Jan	Add Exact
[cheap ringtones]	1 - 3	\$2.03	5,400		Dec	Add Exact
[hip hop ringtones]	1 - 3	\$1.87	5,400		Nov	Add Exact
[midi ringtones]	1 - 3	\$1.63	5,400		Nov	Add Exact
[phone ringtones]	1 - 3	\$1.97	5,400		Jul	Add Exact
[samsung ringtones]	1 - 3	\$1.70	5,400		Feb	Add Exact
[buy ringtones]	1 - 3	\$2.14	4,400		Feb	Add Exact
[christian ringtones]	1 - 3	\$1.67	4,400		Jan	Add Exact
[download free ringtone]	1 - 3	\$1.49	4,400		Jan	Add Exact
[free mp3 ringtone]	1 - 3	\$1.28	4,400		Nov	Add Exact
[24 ringtone]	1 - 3	\$1.23	3,600		Jan	Add Exact
[bollywood ringtones]	1 - 3	\$0.96	3,600		Nov	Add Exact
[cellular ringtones]	1 - 3	\$2.08	3,600		Aug	Add Exact
[cool ringtones]	1 - 3	\$1.83	3,600		May	Add Exact
[free cell phone ringtone]	1 - 3	\$2.07	3,600		Jan	Add Exact
[free cellphone ringtones]	1 - 3	\$1.83	3,600		Jan	Add Exact
[free midi ringtones]	1 - 3	\$1.49	3,600		Jan	Add Exact
[hindi ringtones]	1 - 3	\$0.78	3,600		Nov	Add Exact
[lg ringtones]	1 - 3	\$1.63	3,600		Jan	Add Exact
[wwe ringtones]	1 - 3	\$2.35	3,600		Feb	Add Exact
[convert mp3 to ringtone]	1 - 3	\$0.82	2,900		Jan	Add Exact
[country ringtones]	1 - 3	\$2.33	2,900		Jan	Add Exact
[crazy frog ringtone]	1 - 3	\$2.49	2,900		Jan	Add Exact
[ctu ringtone]	1 - 3	\$1.25	2,900		Jan	Add Exact
[disney ringtones]	1 - 3	\$3.00	2,900		Feb	Add Exact
[get ringtones]	1 - 3	\$1.87	2,900		Aug	Add Exact
[movie ringtones]	1 - 3	\$1.41	2,900		Jan	Add Exact
[music ringtone]	1 - 3	\$1.60	2,900		Mar	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[rap ringtones]	1 - 3	\$1.89	2,900		Feb	Add Exact
[ringtone jukebox]	1 - 3	\$1.82	2,900		Jan	Add Exact
[voice ringtones]	1 - 3	\$2.29	2,900		Mar	Add Exact
[wap ringtones]	1 - 3	\$1.20	2,900		Jan	Add Exact
[cell ringtones]	1 - 3	\$2.09	2,400		Jul	Add Exact
[cellphone ringtones]	1 - 3	\$2.06	2,400		Jan	Add Exact
[midi ringtone]	1 - 3	\$1.32	2,400		Nov	Add Exact
[new ringtones]	1 - 3	\$2.24	2,400		Jan	Add Exact
[nextel ringtone]	1 - 3	\$1.42	2,400		Nov	Add Exact
[phone ringtone]	1 - 3	\$1.84	2,400		Nov	Add Exact
[download ringtones for free]	1 - 3	\$1.52	1,900		Sep	Add Exact
[monophonic ringtones]	1 - 3	\$1.82	1,900		Jan	Add Exact
[ringtone com]	1 - 3	\$1.77	1,900		Nov	Add Exact
[ringtones mp3]	1 - 3	\$1.42	1,900		Jul	Add Exact
[silent ringtone]	1 - 3	\$1.77	1,900		Jan	Add Exact
[star wars ringtones]	1 - 3	\$1.87	1,900		Jan	Add Exact
[poly ringtones]	1 - 3	\$1.54	1,600		Jun	Add Exact
[real ringtone]	1 - 3	\$1.93	1,600		Jan	Add Exact
[ringtones downloads]	1 - 3	\$1.57	1,600		May	Add Exact
[samsung ringtone]	1 - 3	\$1.55	1,600		Jan	Add Exact
[sex and the city ringtone]	1 - 3	\$2.93	1,600		Jun	Add Exact
[t mobile ringtone]	1 - 3	\$2.06	1,600		Nov	Add Exact
[beatles ringtones]	1 - 3	\$1.83	1,300		Mar	Add Exact
[downloading ringtones]	1 - 3	\$1.77	1,300		May	Add Exact
[final fantasy ringtone]	1 - 3	\$2.29	1,300		Jan	Add Exact
[fun ringtones]	1 - 3	\$1.34	1,300		Aug	Add Exact
[hindi ringtone]	1 - 3	\$0.52	1,300		Nov	Add Exact
[lg ringtone]	1 - 3	\$1.62	1,300		Jan	Add Exact
[fre ringtones]	1 - 3	\$1.79	1,000		Aug	Add Exact
[how to download ringtones]	1 - 3	\$1.35	1,000		Aug	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[linkin park ringtones]	1 - 3	\$1.85	1,000		Mar	Add Exact
[my ringtones]	1 - 3	\$1.60	1,000		Oct	Add Exact
[poly ringtone]	1 - 3	\$1.52	1,000		Jan	Add Exact
[simpsons ringtone]	1 - 3	\$1.57	1,000		Jan	Add Exact
[tv ringtones]	1 - 3	\$1.59	1,000		Jan	Add Exact
[frog ringtone]	1 - 3	\$2.37	880		Jan	Add Exact
[kill bill ringtone]	1 - 3	\$1.10	880		Nov	Add Exact
[mobile ringtone converter]	1 - 3	\$0.81	880		Apr	Add Exact
[realtone ringtones]	1 - 3	\$1.85	880		Jan	Add Exact
[ringtone wav]	1 - 3	\$0.98	880		Jan	Add Exact
[ringtones to download]	1 - 3	\$1.47	880		May	Add Exact
[rock ringtones]	1 - 3	\$1.65	880		Aug	Add Exact
[tamil ringtones]	1 - 3	\$1.57	880		Jan	Add Exact
[voice ringtone]	1 - 3	\$1.86	880		Jan	Add Exact
[www ringtones]	1 - 3	\$1.68	880		Nov	Add Exact
[compose ringtone]	1 - 3	\$1.32	720		Nov	Add Exact
[composer ringtone]	1 - 3	\$1.20	720		Jan	Add Exact
[ringtone maker free]	1 - 3	\$1.34	720		Oct	Add Exact
[ringtones and wallpapers]	1 - 3	\$1.58	720		Mar	Add Exact
[sell ringtones]	1 - 3	\$1.81	720		Aug	Add Exact
[buy ringtone]	1 - 3	\$1.80	590		Mar	Add Exact
[get free ringtone]	1 - 3	\$1.86	590		Nov	Add Exact
[mid ringtone]	1 - 3	\$0.86	590		Jan	Add Exact
[send ringtone]	1 - 3	\$1.37	590		Dec	Add Exact
[top ringtone]	1 - 3	\$1.38	590		Jul	Add Exact
[ringtone codes]	1 - 3	\$1.25	480		Nov	Add Exact
[ringtone theme]	1 - 3	\$1.53	480	No data	No data	Add Exact
[sample ringtones]	1 - 3	\$1.97	480		Sep	Add Exact
[monophonic ringtone]	1 - 3	\$1.62	390		Jan	Add Exact
[wap ringtone]	1 - 3	\$1.42	390		Jan	Add Exact
[keypress ringtone]	1 - 3	\$1.25	320		Nov	Add Exact
[ringtone tones]	1 - 3	\$1.69	320		Nov	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[rtttl ringtone]	1 - 3	\$1.54	320		Jan	Add Exact
[cat ringtone]	1 - 3	\$1.25	210		Sep	Add Exact
[latest ringtone]	1 - 3	\$0.54	210		Jan	Add Exact
[realtone ringtone]	1 - 3	\$1.61	170		Nov	Add Exact
[ringtone file]	1 - 3	\$1.06	170		Jan	Add Exact
[ringtone ericsson]	1 - 3	\$1.77	110		Feb	Add Exact
[t610 ringtone]	1 - 3	\$2.03	110		Jan	Add Exact
[polyphone ringtone]	1 - 3	\$1.00	91		Dec	Add Exact
[ringtone melody]	1 - 3	\$1.50	91		Dec	Add Exact
[rttl ringtone]	1 - 3	\$1.73	91		Dec	Add Exact
[wallpaper ringtone]	1 - 3	\$1.71	73		Dec	Add Exact
[ringtone truetone]	1 - 3	\$1.27	58		Dec	Add Exact
[ringtone wallpapers]	1 - 3	\$0.05	58		Jul	Add Exact
[ringtone tune]	1 - 3	\$0.05	46		Sep	Add Exact
[ringtone realtones]	1 - 3	\$1.94	36		Jun	Add Exact
[ringtone sagem]	1 - 3	\$1.64	36		May	Add Exact
[ringtone ringers]	1 - 3	\$0.05	28	No data	No data	Add Exact
[ringtone mono]	1 - 3	\$1.39	22		May	Add Exact
[truetones ringtone]	1 - 3	\$0.05	22		Nov	Add Exact
Add all 150 »						
Download all keywords: text , .csv (for excel) , .csv						
Additional keywords to consider - sort by relevance						
[ring tones]	1 - 3	\$2.12	135,000		Jul	Add Exact
[free ring tones]	1 - 3	\$2.28	110,000		Aug	Add Exact
[tone]	1 - 3	\$1.07	74,000		Jan	Add Exact
[ring tone]	1 - 3	\$1.58	22,200		Jul	Add Exact
[tones]	1 - 3	\$1.80	9,900		Nov	Add Exact
[free ring tone]	1 - 3	\$1.85	8,100		Feb	Add Exact
[polyphonic]	1 - 3	\$1.44	8,100		Nov	Add Exact
[ringers]	1 - 3	\$1.74	8,100		Aug	Add Exact
[realtones]	1 - 3	\$1.60	6,600		Nov	Add Exact
[monophonic]	1 - 3	\$1.61	2,900		Sep	Add Exact
[real tones]	1 - 3	\$1.80	2,900		Nov	Add Exact
[mobile phone ringtones]	1 - 3	\$1.85	2,400		Nov	Add Exact
[mobile ring tones]	1 - 3	\$2.37	1,900		Jan	Add Exact
[phone ring tones]	1 - 3	\$2.22	1,900		Nov	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[downloadable ringtone]	1 - 3	\$1.77	1,600		Feb	Add Exact
[harry potter ringtone]	1 - 3	\$1.77	1,600		Jan	Add Exact
[true tones]	1 - 3	\$1.21	1,600		Jan	Add Exact
[real tone]	1 - 3	\$1.49	1,300		Jan	Add Exact
[arabic ringtone]	1 - 3	\$1.26	1,000		Jan	Add Exact
[download ring tones]	1 - 3	\$1.83	1,000		Nov	Add Exact
[mobile phone ringtone]	1 - 3	\$1.96	1,000		Nov	Add Exact
[phone tones]	1 - 3	\$2.19	1,000		Oct	Add Exact
[realtone]	1 - 3	\$1.51	1,000		Jul	Add Exact
[star wars ringtone]	1 - 3	\$1.70	1,000		May	Add Exact
[mission impossible ringtone]	1 - 3	\$2.10	880		Dec	Add Exact
[cellular ringtone]	1 - 3	\$2.00	720		Nov	Add Exact
[keypress]	1 - 3	\$1.18	720		Nov	Add Exact
[mobile phone ring tones]	1 - 3	\$2.44	720		Jan	Add Exact
[sony ericsson ringtone]	1 - 3	\$1.46	720		Nov	Add Exact
[get ringtone]	1 - 3	\$1.72	590		Jan	Add Exact
[polyphonic ring tones]	1 - 3	\$2.09	590		Jan	Add Exact
[polyphonic tones]	1 - 3	\$1.53	590		Jan	Add Exact
[kyocera ringtone]	1 - 3	\$1.47	480		Nov	Add Exact
[mobile ring tone]	1 - 3	\$2.01	480		Oct	Add Exact
[true tone]	1 - 3	\$0.79	480		Nov	Add Exact
[truetone]	1 - 3	\$0.97	480		Dec	Add Exact
[truetones]	1 - 3	\$0.80	480		Dec	Add Exact
[cellphone ringtone]	1 - 3	\$1.93	320		Jan	Add Exact
[metallica ringtone]	1 - 3	\$1.88	320		Jul	Add Exact
[polyphonics]	1 - 3	\$1.20	320		Oct	Add Exact
[rtttl]	1 - 3	\$1.25	320		Oct	Add Exact
[the oc ringtone]	1 - 3	\$1.00	170		Dec	Add Exact
[alcatel ringtone]	1 - 3	\$1.29	140		Nov	Add Exact
[rttl]	1 - 3	\$1.19	140		Apr	Add Exact
[ringtone real tones]	1 - 3	\$1.84	110		Mar	Add Exact
[theme song ringtone]	1 - 3	\$1.71	73		Jan	Add Exact

Keywords	Estimated Ad Position	Estimated Avg. CPC	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Exact
[true tones ringtone]	1 - 3	\$0.05	28		Jul	Add Exact
[ringtone true tone]	1 - 3	\$1.60	22		Feb	Add Exact
[ringtone real tone]	1 - 3	\$1.72	16		Feb	Add Exact
[ring tone ringtone]	1 - 3	\$0.05	12		May	Add Exact
Add all 50 »						
Download all keywords: text , .csv (for excel) , .csv						

Exhibit B



ringtone	
ringtones	121,000,000 results
ringtone maker	2,020,000 results
ringtones free	5,010,000 results
ringtones for iphone	15,200,000 results
ringtones download	2,950,000 results
ringtone creator	606,000 results
ringtones for blackberry	7,110,000 results
ringtone converter	2,320,000 results
ringtones.com	67,400,000 results
ringtones free download	1,060,000 results

Get

[Advanced Search](#)
[Preferences](#)
[Language Tools](#)

[Use](#)

Exhibit C



free	
free online games	46,400,000 results
free games	87,200,000 results
free ringtones	13,200,000 results
free translation	17,100,000 results
free music downloads	48,300,000 results
free rider 2	9,950,000 results
free credit report	22,600,000 results
free music	129,000,000 results
free online movies	33,300,000 results
free fonts	3,010,000 results
	close

[Advanced Search](#)
[Preferences](#)
[Language Tools](#)

Exhibit D



It's All About Results™

[Help](#) | [Contact Us](#)

Keyword Tool

Use the Keyword Tool to get new keyword ideas. Select an option below to enter a few descriptive words or phrases, or type in your website's URL. [Keyword Tool Tips](#)

Important note: We cannot guarantee that these keywords will improve your campaign performance. We reserve the right to disapprove any keywords you add. You are responsible for the keywords you select and for ensuring that your use of the keywords does not violate any applicable laws.

new Want more keyword ideas? Try the [Search-based Keyword Tool](#), a new tool that will generate ideas matched to your website.

Results are tailored to **English, United States** [Edit](#)

How would you like to generate keyword ideas?

Descriptive words or phrases
(e.g. green tea)

Website content
(e.g. www.example.com/product?id=74893)

Enter one keyword or phrase per line:

ringtone

Use synonyms

[Filter my results](#)

[Get keyword ideas](#)

Selected Keywords:

Click 'Sign up with these keywords' when you're finished. We'll remember your keyword list when you create your first campaign.

No keywords added yet

[+ Add your own keywords](#)

Calculate estimates using a different maximum CPC bid: Choose columns to display: [?](#)

US Dollars (USD \$) [Show/hide columns](#)

[Recalculate](#) [?](#)

Keywords	Estimated Ad Position ?	Approx Avg Search Volume ?	Search Volume Trends (Nov 2007 - Oct 2008) ?	Highest Volume Occurred In	Match Type: ? Broad ?
Keywords related to term(s) entered - sort by relevance ?					
ringtones	1 - 3	9,140,000		Feb	Add ?
free ringtones	1 - 3	4,090,000		Feb	Add ?
ringtone	1 - 3	4,090,000		Aug	Add ?
free ringtone	1 - 3	1,000,000		Aug	Add ?
ringtones for free	1 - 3	450,000		Jun	Add ?
download ringtones	1 - 3	368,000		Jan	Add ?
phone ringtones	1 - 3	301,000		Nov	Add ?
ringtones mp3	1 - 3	301,000		Dec	Add ?
download ringtone	1 - 3	246,000		Jan	Add ?
mobile ringtones	1 - 3	246,000		Nov	Add ?
mp3 ringtone	1 - 3	246,000		Aug	Add ?
download free ringtones	1 - 3	201,000		Jan	Add ?
cell ringtones	1 - 3	165,000		Nov	Add ?
phone ringtone	1 - 3	165,000		Jan	Add ?
cellular ringtones	1 - 3	135,000		Nov	Add ?
free mobile ringtones	1 - 3	135,000		Aug	Add ?

[Sign up with these keywords](#)

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
free mp3 ringtones	1 - 3	135,000		Dec	Add
ringtone maker	1 - 3	135,000		Jan	Add
cell phone ringtones	1 - 3	110,000		Nov	Add
download free ringtone	1 - 3	110,000		Jan	Add
make ringtones	1 - 3	110,000		Sep	Add
music ringtones	1 - 3	110,000		Dec	Add
real ringtones	1 - 3	110,000		Dec	Add
ringtones com	1 - 3	110,000		Sep	Add
get ringtones	1 - 3	90,500		Aug	Add
lg ringtones	1 - 3	90,500		Aug	Add
mobile ringtone	1 - 3	90,500		Jan	Add
nextel ringtones	1 - 3	90,500		Nov	Add
samsung ringtones	1 - 3	90,500		May	Add
cell phone ringtone	1 - 3	74,000		Jan	Add
funny ringtones	1 - 3	74,000		May	Add
my ringtones	1 - 3	74,000		Aug	Add
polyphonic ringtones	1 - 3	74,000		Nov	Add
free mp3 ringtone	1 - 3	60,500		Jan	Add
free music ringtones	1 - 3	60,500		Dec	Add
free ringtone downloads	1 - 3	60,500		Jan	Add
ringtone converter	1 - 3	60,500		Jan	Add
downloadable ringtones	1 - 3	49,500		Nov	Add
free cell phone ringtones	1 - 3	49,500		Dec	Add
free real ringtones	1 - 3	49,500		Dec	Add
get free ringtones	1 - 3	49,500		Sep	Add
mosquito ringtone	1 - 3	49,500		May	Add
music ringtone	1 - 3	49,500		Nov	Add
ringtones to download	1 - 3	49,500		Sep	Add
t mobile ringtones	1 - 3	49,500		Dec	Add
24 ringtone	1 - 3	40,500		Mar	Add
lg ringtone	1 - 3	40,500		May	Add
nextel ringtone	1 - 3	40,500		Nov	Add
polyphonic ringtone	1 - 3	40,500		Jan	Add
ringtone software	1 - 3	40,500		Jan	Add
ringtones downloads	1 - 3	40,500		May	Add

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
samsung ringtone	1 - 3	40,500		May	Add
tmobile ringtones	1 - 3	40,500		Mar	Add
bollywood ringtones	1 - 3	33,100		Jan	Add
ctu ringtone	1 - 3	33,100		Jan	Add
free downloadable ringtones	1 - 3	33,100		Nov	Add
free nextel ringtones	1 - 3	33,100		Nov	Add
free polyphonic ringtones	1 - 3	33,100		Nov	Add
hot ringtones	1 - 3	33,100		Dec	Add
ringtone.com	1 - 3	33,100		Nov	Add
ringtone creator	1 - 3	33,100		Jan	Add
ringtones for cell phones	1 - 3	33,100		May	Add
www.ringtones	1 - 3	33,100		Apr	Add
christian ringtones	1 - 3	27,100		Dec	Add
download ringtones for free	1 - 3	27,100		Mar	Add
free t mobile ringtones	1 - 3	27,100		Dec	Add
midi ringtones	1 - 3	27,100		Jan	Add
real ringtone	1 - 3	27,100		Nov	Add
ringtone maker free	1 - 3	27,100		Sep	Add
ringtone theme	1 - 3	27,100		Aug	Add
wap ringtones	1 - 3	27,100		Nov	Add
composer ringtone	1 - 3	22,200		May	Add
hindi ringtones	1 - 3	22,200		Nov	Add
send ringtone	1 - 3	22,200		Sep	Add
wwe ringtones	1 - 3	22,200		Nov	Add
cellphone ringtones	1 - 3	18,100		Nov	Add
cheap ringtones	1 - 3	18,100		Jan	Add
country ringtones	1 - 3	18,100		Jan	Add
free cell phone ringtone	1 - 3	18,100		Nov	Add
hindi ringtone	1 - 3	18,100		Jan	Add
midi ringtone	1 - 3	18,100		Jan	Add
new ringtones	1 - 3	18,100		Aug	Add
t mobile ringtone	1 - 3	18,100		Dec	Add
voice ringtones	1 - 3	18,100		May	Add
buy ringtones	1 - 3	14,800		Jan	Add
frog ringtone	1 - 3	14,800		May	Add

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
hip hop ringtones	1 - 3	14,800		Nov	Add
how to download ringtones	1 - 3	14,800		Aug	Add
movie ringtones	1 - 3	12,100		Jan	Add
rap ringtones	1 - 3	12,100		Feb	Add
ringtone ericsson	1 - 3	12,100		Dec	Add
ringtones and wallpapers	1 - 3	12,100		Feb	Add
cool ringtones	1 - 3	9,900		Nov	Add
crazy frog ringtone	1 - 3	9,900		May	Add
downloading ringtones	1 - 3	9,900		Aug	Add
free midi ringtones	1 - 3	9,900		Dec	Add
fun ringtones	1 - 3	9,900		Sep	Add
monophonic ringtones	1 - 3	9,900		Nov	Add
ringtone file	1 - 3	9,900		Aug	Add
rock ringtones	1 - 3	9,900		Aug	Add
star wars ringtones	1 - 3	9,900		Nov	Add
voice ringtone	1 - 3	9,900		Jan	Add
buy ringtone	1 - 3	8,100		Jan	Add
free cellphone ringtones	1 - 3	8,100		Nov	Add
get free ringtone	1 - 3	8,100		Aug	Add
ringtone wav	1 - 3	8,100		Jan	Add
tv ringtones	1 - 3	8,100		Jan	Add
wallpaper ringtone	1 - 3	8,100		May	Add
convert mp3 to ringtone	1 - 3	6,600		Jan	Add
disney ringtones	1 - 3	6,600		Nov	Add
poly ringtones	1 - 3	6,600		Nov	Add
ringtone codes	1 - 3	6,600		Jan	Add
tamil ringtones	1 - 3	6,600		Nov	Add
final fantasy ringtone	1 - 3	5,400		Jan	Add
keypress ringtone	1 - 3	5,400		May	Add
ringtone jukebox	1 - 3	5,400		Nov	Add
silent ringtone	1 - 3	5,400		Jan	Add
wap ringtone	1 - 3	5,400		Nov	Add
realtone ringtones	1 - 3	4,400		Nov	Add
simpsons ringtone	1 - 3	4,400		Nov	Add
top ringtone	1 - 3	4,400		Sep	Add

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
beatles ringtones	1 - 3	3,600		Sep	Add
compose ringtone	1 - 3	3,600		May	Add
poly ringtone	1 - 3	3,600		Jan	Add
sell ringtones	1 - 3	3,600		Nov	Add
kill bill ringtone	1 - 3	2,900		Nov	Add
linkin park ringtones	1 - 3	2,900		Sep	Add
mid ringtone	1 - 3	2,900		Jan	Add
mobile ringtone converter	1 - 3	2,900		Jan	Add
monophonic ringtone	1 - 3	2,900		May	Add
ringtone tune	1 - 3	2,900	No data	No data	Add
sex and the city ringtone	1 - 3	2,900		Jun	Add
cat ringtone	1 - 3	2,400		Sep	Add
fre ringtones	1 - 3	2,400		Aug	Add
ringtone tones	1 - 3	1,900		Nov	Add
latest ringtone	1 - 3	1,300		May	Add
sample ringtones	1 - 3	1,300		Sep	Add
realtone ringtone	1 - 3	1,000		Jan	Add
ringtone melody	1 - 3	1,000		Aug	Add
rtttl ringtone	1 - 3	1,000		Jan	Add
ringtone mono	1 - 3	880		Nov	Add
ringtone wallpapers	1 - 3	880	No data	No data	Add
ringtone realtones	1 - 3	590		Nov	Add
ringtone sagem	1 - 3	590		May	Add
t610 ringtone	1 - 3	590		May	Add
ringtone truetone	1 - 3	260		Nov	Add
rttl ringtone	1 - 3	210		Dec	Add
polyphone ringtone	1 - 3	170		Nov	Add
truetones ringtone	1 - 3	140	No data	No data	Add
ringtone ringers	1 - 3	91	No data	No data	Add
Add all 150 »					
Download all keywords: text , csv (for excel) , csv					
Additional keywords to consider - sort by relevance					
tone	1 - 3	2,740,000		Oct	Add
tones	1 - 3	1,500,000		Jan	Add
ring tones	1 - 3	673,000		Jan	Add
ring tone	1 - 3	368,000		Jan	Add
free ring tones	1 - 3	246,000		Jan	Add
polyphonic	1 - 3	201,000		Nov	Add
ringers	1 - 3	135,000		Jul	Add
free ring tone	1 - 3	60,500		Jan	Add

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
phone tones	1 - 3	60,500		Jan	Add
keypress	1 - 3	40,500		Jan	Add
phone ring tones	1 - 3	40,500		Jan	Add
realtones	1 - 3	40,500		Nov	Add
real tones	1 - 3	33,100		Nov	Add
get ringtone	1 - 3	27,100		Aug	Add
realtone	1 - 3	27,100		Nov	Add
cellular ringtone	1 - 3	22,200		Jan	Add
mobile ring tones	1 - 3	22,200		Jan	Add
monophonic	1 - 3	22,200		Nov	Add
download ring tones	1 - 3	18,100		Feb	Add
mobile phone ringtones	1 - 3	18,100		Mar	Add
real tone	1 - 3	18,100		Jan	Add
mobile phone ringtone	1 - 3	12,100		May	Add
downloadable ringtone	1 - 3	9,900		May	Add
sony ericsson ringtone	1 - 3	9,900		Dec	Add
true tones	1 - 3	9,900		Nov	Add
theme song ringtone	1 - 3	8,100		Jan	Add
true tone	1 - 3	8,100		Nov	Add
harry potter ringtone	1 - 3	6,600		Jan	Add
kyocera ringtone	1 - 3	5,400		May	Add
mobile ring tone	1 - 3	5,400		Jan	Add
polyphonic tones	1 - 3	5,400		Jan	Add
truetone	1 - 3	5,400		Nov	Add
arabic ringtone	1 - 3	4,400		Nov	Add
rtttl	1 - 3	4,400		Nov	Add
star wars ringtone	1 - 3	4,400		Jan	Add
cellphone ringtone	1 - 3	2,900		Aug	Add
mobile phone ring tones	1 - 3	2,900		Oct	Add
truetones	1 - 3	2,900		Nov	Add
mission impossible ringtone	1 - 3	2,400		Sep	Add
polyphonic ring tones	1 - 3	2,400		Jan	Add
polyphonics	1 - 3	1,900		Feb	Add
metallica ringtone	1 - 3	1,600		Aug	Add
ringtone real tone	1 - 3	880		May	Add

Keywords	Estimated Ad Position	Approx Avg Search Volume	Search Volume Trends (Nov 2007 - Oct 2008)	Highest Volume Occurred In	Match Type: Broad
rttl	1 - 3	880		Jan	Add
ring tone ringtone	1 - 3	590	No data	No data	Add
the oc ringtone	1 - 3	590		Jan	Add
alcatel ringtone	1 - 3	480		May	Add
ringtone real tones	1 - 3	390		Jan	Add
ringtone true tone	1 - 3	320		Jan	Add
true tones ringtone	1 - 3	260	No data	No data	Add

[Add all 50 »](#)

Download all keywords: [text](#), [.csv \(for excel\)](#), [.csv](#)

Exhibit E

**STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL**

IN THE MATTER OF:

Case No. L07-3-1044

AZOOGLEADS US, INC.

_____ /

ASSURANCE OF VOLUNTARY COMPLIANCE

A. INTRODUCTION

PURSUANT to the provisions of Chapter 501, Part II, Florida Statutes, the OFFICE OF THE ATTORNEY GENERAL, hereinafter referred to as the OAG, caused an inquiry to be made into the advertising and business practices of AZOOGLEADS US, INC., d/b/a AZOOGLE, pertaining to third-party wireless content, hereinafter referred to as “Azoogle” or “Respondent,” with a principal business address of 512 7th Avenue, 12th Floor, New York, New York 10018.

RESPONDENT has fully cooperated with the Attorney General in its investigation and has stated its intention to work with this Office to set new standards in the industry as to internet marketing and advertising.

IT IS AGREED that this Assurance of Voluntary Compliance (“AVC”) does not constitute any evidence or admission of any kind. This AVC does not constitute a finding of law or fact by any court or agency that Respondent has engaged in any act or practice declared unlawful by any laws, rules or regulations of the State of Florida. Respondent is prepared to enter into this AVC for the purpose of resolution and cooperation, and the Attorney General, being in agreement, does in this matter accept this

AVC in termination of this investigation with prejudice, pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the OAG by said statute. The parties intend that this AVC not be used as evidence in any third party action or proceeding. The OAG and Respondent hereby agree and stipulate to the following:

B. JURISDICTION AND VENUE

1. Azoogole is an online Advertising network that provides a distribution platform for third party advertising of third party ringtone products and/or services to consumers.
2. **IT IS AGREED** by the parties that the State of Florida has jurisdiction over Respondent solely for the purpose of entering into this AVC and in any enforcement or investigative actions arising out of this AVC.
3. **IT IS FURTHER AGREED** by the parties that venue for any matter relating to or arising out of this AVC shall lie solely in Leon County, Florida.

C. DEFINITIONS

1. "Advertising" (including "advertisement" and "advertise") as used herein means any message created, published and/or distributed by or under the direction or control of Azoogole directly to the general public or any segment thereof, that promotes or is likely to promote directly or indirectly third party wireless content.
2. "Clear and conspicuous" or "clearly and conspicuously" means that a statement, representation, claim or term being conveyed is readily noticeable and reasonably understandable by the persons to whom it is directed. The following, without limitation, shall be considered as factors in determining whether a statement, representation, claim or term, is clearly and conspicuously disclosed:

- a. whether it is of sufficient prominence in terms of size, placement, color, contrast, duration of appearance, sound and speed, as to be readily noticeable and reasonably understandable by a person to whom it is directed;
- b. whether it is presented to the person(s) to whom it is directed in a coherent and meaningful sequence with respect to other representations, statements, claims, or terms conveyed;
- c. whether it is contradictory to any representations, statements, claims, or terms it purports to clarify, modify, or explain, or otherwise contradictory or confusing in relation to any other representations, statement, claim, or term being conveyed;
- d. whether abbreviations are being used and if so whether they are commonly understood by consumers acting reasonably under the circumstances;
- e. whether the language and terms used are free of technical or legal jargon and are commonly understood by consumers acting reasonably under the circumstances;
- f. whether, in print or electronic media or orally represented, it is in close proximity to the representations, statements, claims, or terms it clarifies, modifies, explains, or to which it otherwise relates;
- g. whether it is presented in a place where consumers cannot miss seeing it;

- h. whether it is presented in such a way as to be free of distractions, including but not limited to sound, graphics, or text, that compete for the attention of the consumer.
 - i. whether the viewer is encouraged to scroll down within the frame of the page or within a scroll box in order to read such disclosure.
- 4. “Consumer” as used herein means a consumer who is a resident of the State of Florida.
- 5. “Initial Representation” as used herein shall include all sponsored links, email subject lines, banner ads, pop-ups, and any and all other primary impressions created or presented by Azoogole or any of its contract publishers.
- 6. “Immediate proximity” as used herein means adjacent to.
- 7. “Negative option plan” as used herein shall mean when a seller presents a consumer with an opportunity to consent in advance to continue to receive products or services in the future until cancelled. The seller interprets the consumer’s silence or failure to take an affirmative action to reject goods or services, or to cancel the sales agreement, as an agreement to continue to receive the offer.
- 8. “Order path” as used herein shall mean the sequence of impressions, generally beginning with an initial representation via an online display advertisement (e.g., banner advertisement), search engine title and descriptions, or email advertisement, and including one or more web pages (for example, “landing” and “jump” pages), that together constitute the Advertisement.
- 9. “Person” as used herein shall mean a natural person or entity.

10. "Publisher" as used herein shall mean any third party independent entity, whether natural person, corporation, partnership, proprietorship, limited liability company, or other organization or legal entity, that applies to be and is accepted to do business with Azoogle as a distributor of Advertising as defined above, for Third Party Wireless Content Providers, and that agrees to abide by the Azoogle Terms and Conditions of service.
11. "Third Party Wireless Content Provider" as used herein shall mean any third party independent entity, whether natural person, corporation, partnership, proprietorship, limited liability company, or other organization or legal entity, that enters into a contract with Azoogle to advertise wireless content products and/or services which it substantially provides to consumers, and where compensation is paid in any form (cost per acquisition, cost per click, cost per impression, revenue share agreement or other form of compensation) by such entity to Azoogle for its services.

D. AGREEMENT OF COMPLIANCE

1. **IT IS AGREED** by the parties that this AVC applies to Respondent, acting directly, or through any entity that any Respondent directs or controls, in connection with the advertising, promoting and/or distribution of advertising or promotions for Third Party Wireless Content Providers.
2. **IT IS FURTHER AGREED** by the parties that, in the course and conduct of the business of advertising, promoting and/or distribution of advertising or promotions for Third Party Wireless Content Providers, Respondent, in any advertising it creates

or directly controls and as a provision in all contracts entered into with any third party wireless content provider and/or publisher shall not:

- a. Permit the use of the terms “free,” “complimentary,” “no charge,” “without charge,” or any other term that reasonably leads a consumer to believe that he or she may receive something of value, entirely or in part without a requirement of compensation in any form, or that tends to convey the impression to the consuming public that an article of merchandise or service is “free,” unless the Initial Representation shall also clearly and conspicuously state that the free item may be received by a consumer pursuant to his or her authorization of billing for a paid subscription plan, the price of the plan, and its term. For instance, a free ringtone offer requiring a consumer to subscribe to a monthly subscription plan at a cost of \$9.99 per month shall say, “Free ringtone with paid monthly subscription of \$9.99/month.”
- b. Permit the advertisement or promotion of any content that is available only through certain wireless carriers, unless the Advertisement clearly and conspicuously discloses that the content is not available through all carriers and clearly and conspicuously disclose for each type of content, the carriers that support each type of content being advertised.
- c. Permit the advertisement or promotion of any content that is available only on certain makes or models of mobile devices unless the Advertisement clearly and conspicuously discloses that the content is not

available on all phones and discloses in close proximity thereto the specific makes and models for which the content is available.

- d. Permit the inclusion in any offer a term or condition to its acceptance whereby the consumer agrees to accept advertising or promotional messages delivered electronically to cell phones via text messaging, e-mail or otherwise, that are unrelated to the current offer, unless expressly and specifically consented to by the consumer.
- e. Permit the placement of prechecked boxes in an offer intended to be used for acceptance of a term(s) or condition(s) of the offer.

3. **IT IS FURTHER AGREED** by the parties that, in the course and conduct of the business of advertising, promoting and/or distribution of advertising or promotions for Third Party Wireless Content Providers, Respondent, in any advertising it creates or directly controls and as a provision in all contracts entered into with any third party wireless content provider and/or publisher shall;

- a. clearly and conspicuously (see definition) disclose the price and billing period of the recurring charge of the third party wireless content immediately adjacent to the cell phone submit field and the P.I.N. code submit field, e.g., "\$9.99 per month;"
- b. clearly and conspicuously disclose on the cellphone number submit web page and the PIN Code submit web page the following material terms and conditions:
 - i. the initial and recurring charge for content, goods or services,
 - ii. whether other charges may apply,

- iii. if the offer is for a recurring subscription plan; that the consumer will be charged automatically with no further action on the part of the consumer; the frequency with which the charge will automatically be made to the account in the absence of cancellation of the plan; and that the consumer will continue to receive the charges until the consumer cancels the plan,
 - iv. how to cancel the plan, and
 - v. the mechanism for charging the consumer, e.g., “on your cellphone bill or deducted from your prepaid balance on your cellphone account.”
 - vi. that the purchaser of the mobile content must be 18 years of age or older.
- c. require that a hyperlink to the terms and conditions of the offer is placed on every cellphone submit page and PIN Code submit page in the order path.

E. CONTRIBUTION

1. Upon execution of this AVC by Respondent, Respondent shall make a contribution to the OAG of \$1,000,000.00 (one million dollars) payable to the Department of Legal Affairs’ Revolving Trust Fund to cover attorneys’ fees and costs associated with the matters resolved herein and to assist with the costs of future investigation and enforcement efforts related to the third-party wireless content industry. The contribution to the Legal Affairs’ Revolving Trust Fund shall be made by check or wire transfer within seven(7) days from the date of execution of this AVC, payable to

the Department of Legal Affairs' Revolving Trust Fund, and shall be delivered to Will Haselden, Assistant Attorney General, Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399-1050.

F. REPORTING REQUIREMENTS

1. Within thirty (30) days of the date of execution of this AVC, Respondent shall use its best efforts to produce an excel spreadsheet of Azoogole's Third Party Wireless Content Providers for ringtones who were Third Party Wireless Content Providers at any time since Respondent and its Publishers began promoting ringtones, including, to the extent available, the Third Party Ringtone Service Provider's name, physical address and the name and address of the advertiser's contact person.

G. COOPERATION IN INVESTIGATIONS AND PROCEEDINGS

1. Respondent agrees to continue to cooperate with the OAG with respect to its future investigation of internet marketing. Wherefore, it is agreed by the parties that for a period of twelve (12) months following entry of this AVC, Respondent shall, following fourteen (14) days written notice to Azoogole's general counsel, David Graff, Esquire, and an opportunity to object, reasonably cooperate with the OAG with regard to the matters that are the subject of the investigation of Azoogole and this resulting AVC, and related investigations, proceedings and actions concerning any other person, including but not limited to Azoogole's current and former publishers. Respondent shall use reasonable efforts to ensure that Azoogole's officers, directors and employees also cooperate with the OAG in such investigations, proceedings and

actions. Except where prohibited by law, the parties agree that such cooperation shall include:

- a. Without the necessity of a subpoena, using reasonable efforts to have Azoogole officers, directors and employees attend any interviews and other proceedings at which the presence of any such persons is requested by the OAG and using reasonable efforts to have such persons answer any inquiries made by the representatives of the OAG to any of them at any interviews or other proceedings or actions. Wherever possible, all such inquiries shall be made by telephone or, if necessary, during an in-person interview conducted in New York, New York;
- b. Production, without the necessity of a subpoena, of non-privileged information and documents or other tangible evidence reasonably requested by the OAG, and any compilations or summaries of information or data that the OAG reasonably requests to be prepared. Respondent may move for a protective order as to those materials requested. Any such motion shall be filed in the Circuit Court of Leon County, Florida.
- c. Upon request by the OAG, notifying a Publisher, advertiser, wireless carrier, aggregator, or consultant, in writing, that Respondent does not object to, such person cooperating with the OAG by responding to OAG requests for interviews or documents and that Respondent shall not take any action to the detriment of, or otherwise impose any consequences upon, the Publisher for cooperating with the OAG;

- d. Taking no action to the detriment of, or impose any consequences on, any person who cooperates with, or provides information or documents to the OAG;
 - e. In the event that Respondent withholds or redacts any document under a claim that the document sought is privileged and on that basis not subject to disclosure or subject to disclosure only under a protective order, Respondent shall state, in writing: the type of document; the date of the document; the author and recipient of the document; the general subject matter of the document; the reason for withholding the document; and the Bates number or range of the document. The OAG may challenge such claims in the circuit court of Leon County, Florida in a proceeding for an order compelling production.
2. **IT IS FURTHER AGREED** by the parties that a period of two (2) years from the date of the execution of the AVC, Respondent shall promptly notify the OAG of any changes in corporate structure that may affect compliance obligations arising under the AVC, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity, the creation or dissolution of a subsidiary, parent, or affiliate entity that engages in any acts or practices subject to this AVC, the filing of any bankruptcy petition, or a change in the corporate name or address.
3. For the purposes of this AVC, Respondent shall, unless otherwise directed by OAG representatives, mail all written notifications to the OAG, identifying all written communications as in reference to OAG Case No.

L07-3-1044, and sent to:

Economic Crimes Division/Tallahassee
Office of Attorney General
The Capitol, PL-01
Tallahassee, Florida 32399-1050.

H. NO ADMISSION OF LIABILITY OR WAIVER OF DEFENSES

1. This AVC is not and shall not in any event be construed, deemed to be, and/or used as: (a) an admission or evidence of the validity of any claim that the OAG has or could assert against Respondent, or an admission of any alleged wrongdoing or liability by Respondent; and/or (b) an admission or evidence of any fault, fact, act, or omission by Respondent in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal, other than such proceedings as may be necessary by the OAG to consummate or enforce this AVC. Moreover, by entering into this AVC and agreeing to the terms and conditions provided herein, Respondent does not intend to waive and does not waive any defenses it may have in any other action or proceeding that has been or may be brought against it by any person, entity, and/or agency arising from advertising or promoting content.

I. APPLICATION, EFFECT AND OTHER TERMS

1. **IT IS FURTHER AGREED** by the parties that this AVC shall become effective upon its acceptance by the Attorney General, by and through a Deputy Attorney General who may refuse to accept it at his discretion. The receipt or deposit by the OAG of the monies called for in Section E of this Agreement does not constitute acceptance by the OAG, and such monies received will be immediately returned if the Attorney General does not accept this Agreement.

2. Respondent will implement the terms of this AVC within sixty (60) days following the effective date of the AVC.
3. No waiver, modification or amendment of the terms of this AVC shall be valid or binding unless made in writing, signed by the parties and then only to the extent set forth in such written waiver, modification, or amendment.
4. This AVC shall be governed by, construed and enforced exclusively in accordance with and subject to the laws of the State of Florida, including, but not limited to, its choice of law principles.
5. No waiver of any term, provision, or condition of this AVC, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other provision hereof, whether or not similar, nor shall such waiver constitute a continuing waiver, and no waiver shall be binding unless executed in writing by the party making the waiver.
6. If any clause, provision, or section of the AVC shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this AVC, and this AVC shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.
7. Respondent shall be responsible for delivering a copy of this AVC to all of their officers, directors, and managers within 10 days of the date of the execution of this AVC. Respondent must also deliver a summary of paragraph D. of this AVC to Publishers and Third Party Wireless Content Providers in the manner set forth in that paragraph.

8. Respondent shall not effect any change in the form of doing business or their organizational identity for the purpose of avoiding the terms and conditions set forth in this AVC.
9. Violations of this AVC shall subject Respondent to civil penalties and sanctions provided by law, and payment of attorney's fees and costs incurred in enforcing the provisions of this AVC.
10. This AVC shall become effective upon its execution by all parties.

IN WITNESS WHEREOF, Respondent has caused this Assurance of Voluntary Compliance to be executed by David Graff, as General Counsel of AzoogLeAds, as a true act and deed, in _____ County, _____, this 6th day of November, 2007.

By my signature I hereby affirm that I am acting in my capacity and within my authority General Counsel and Officer of AzoogLeAds Us Inc., and that by my signature I am binding the corporation to this agreement.

By: David Graff, General Counsel

STATE OF _____
COUNTY OF _____

BEFORE ME, an officer duly authorized to take acknowledgments in the State of New York, personally appeared _____, as _____ of _____, and acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this ____ day of _____, 2007.

Sworn to and subscribed before me
this ____ day of _____, 2007.

(print name)
NOTARY PUBLIC

(Print, type or stamp commissioned
name of Notary Public)

Personally known ____ or Produced
Identification ____ (check one)

Type of Identification Produced:

Accepted this ____ day
of _____, 2007.

ROBERT A. HANNAH
Deputy Attorney General, State of Florida
OFFICE OF THE ATTORNEY GENERAL
The Capitol, PL-01
Tallahassee, Florida 32399-1050
(850) 487-1963

Exhibit F

Google Inc. Advertising Program Terms

These Google Inc. Advertising Program Terms ("**Terms**") are entered into by, as applicable, the customer signing these Terms or any document that references these Terms or that accepts these Terms electronically ("**Customer**") and Google Inc. ("**Google**"). These Terms govern Customer's participation in Google's advertising program(s) ("**Program**") and, as applicable, any insertion orders or service agreements ("**IO**") executed by and between the parties and/or Customer's online management of any advertising campaigns. These Terms and any applicable IO are collectively referred to as the "**Agreement**." Google and Customer hereby agree and acknowledge:

1 Policies. Program use is subject to all applicable Google and Partner policies, including without limitation the Editorial Guidelines (adwords.google.com/select/guidelines.html), Google Privacy Policy (www.google.com/privacy.html) and Trademark Guidelines (www.google.com/permissions/guidelines.html), and Google and Partner ad specification requirements (collectively, "**Policies**"). Policies may be modified at any time. Customer shall direct only to Google communications regarding Customer ads on Partner Properties. Some Program features are identified as "**Beta**," "**Ad Experiment**," or otherwise unsupported ("**Beta Features**"). To the fullest extent permitted by law, Beta Features are provided "**as is**" and at Customer's option and risk. Customer shall not disclose to any third party any information from Beta Features, existence of non-public Beta Features or access to Beta Features. Google may modify ads to comply with any Policies.

2 The Program. Customer is solely responsible for all: (a) ad targeting options and keywords (collectively "**Targets**") and all ad content, ad information, and ad URLs ("**Creative**"), whether generated by or for Customer; and (b) web sites, services and landing pages which Creative links or directs viewers to, and advertised services and products (collectively "**Services**"). Customer shall protect any Customer passwords and takes full responsibility for Customer's own, and third party, use of any Customer accounts. Customer understands and agrees that ads may be placed on (y) any content or property provided by Google ("**Google Property**"), and, unless Customer opts out of such placement in the manner specified by Google, (z) any other content or property provided by a third party ("**Partner**") upon which Google places ads ("**Partner Property**"). Customer authorizes and consents to all such placements. With respect to AdWords online auction-based advertising, Google may send Customer an email notifying Customer it has 72 hours ("**Modification Period**") to modify keywords and settings as posted. The account (as modified by Customer, or if not modified, as initially posted) is deemed approved by Customer in all respects after the Modification Period. Customer agrees that all placements of Customer's ads shall conclusively be deemed to have been approved by Customer unless Customer produces contemporaneous documentary evidence showing that Customer disapproved such placements in the manner specified by Google. With respect to all other advertising, Customer must provide Google with all relevant Creative by the due date set forth in that Program's applicable frequently asked questions at www.google.com ("**FAQ**") or as otherwise communicated by Google. Customer grants Google permission to utilize an automated software program to retrieve and analyze websites associated with the Services for ad quality and serving purposes, unless Customer specifically opts out of the evaluation in a manner specified by Google. Google may modify any of its Programs at any time without liability. Google also may modify these Terms at any time without liability, and Customer's use of the Program after notice that these Terms have changed constitutes Customer's acceptance of the new Terms. Google or Partners may reject or remove any ad or Target for any or no reason.

3 Cancellation. Customer may cancel advertising online through Customer's account if online cancellation functionality is available, or, if not available, with prior written notice to Google, including without limitation electronic mail. AdWords online auction-based advertising cancelled online will cease serving shortly after cancellation. The cancellation of all other advertising may be subject to Program policies or Google's ability to re-schedule reserved inventory or cancel ads already in production. Cancelled ads may be published despite cancellation if cancellation of those ads occurs after any applicable commitment date as set forth in advance by the Partner or Google, in which case Customer must pay for those ads. Google may cancel immediately any IO, any of its Programs, or these Terms at any time with notice, in which case Customer will be responsible for any ads already run. Sections 1, 2, 3, 5, 6, 7, 8, and 9 will survive any expiration or termination of this Agreement.

4 Prohibited Uses; License Grant; Representations and Warranties. Customer shall not, and shall not authorize any party to: (a) generate automated, fraudulent or otherwise invalid impressions, inquiries, conversions, clicks or other actions; (b) use any automated means or form of scraping or data extraction to access, query or otherwise collect Google advertising related information from any Program website or property except as expressly permitted by Google; or (c) advertise anything illegal or engage in any illegal or fraudulent business practice. Customer represents and warrants that it holds and hereby grants Google and Partners all rights (including without limitation any copyright, trademark, patent, publicity or other rights) in Creative, Services and Targets needed for Google and Partner to operate Programs (including without limitation any rights needed to host, cache, route, transmit, store, copy, modify, distribute, perform, display, reformat, excerpt, analyze, and create algorithms from and derivative works of Creative or Targets) in connection with this Agreement ("**Use**"). Customer represents and warrants that (y) all Customer information is complete, correct and current; and (z) any Use hereunder and Customer's Creative, Targets, and Customer's Services will not violate or encourage violation of any applicable laws, regulations, code of conduct, or third party rights (including without limitation intellectual property rights). Violation of the foregoing may result in immediate termination of this Agreement or customer's account without notice and may subject Customer to legal penalties and consequences.

5 Disclaimer and Limitation of Liability. To the fullest extent permitted by law, GOOGLE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION FOR NONINFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR ANY PURPOSE. To the fullest extent permitted by law, Google disclaims all guarantees regarding positioning, levels, quality, or timing of: (i) costs per click; (ii) click through rates; (iii) availability and delivery of any impressions, Creative, or Targets on any Partner Property, Google Property, or section thereof; (iv) clicks; (v) conversions or other results for any ads or Targets; (vi) the accuracy of Partner data (e.g. reach, size of audience, demographics or other purported characteristics of audience); and (vii) the adjacency or placement of ads within a Program. Customer understands that third parties may generate impressions or clicks on Customer's ads for prohibited or improper purposes, and Customer accepts the risk of any such impressions and clicks. Customer's exclusive remedy, and Google's exclusive liability, for suspected invalid impressions or clicks is for Customer to make a claim for a refund in the form of advertising credits for Google Properties within the time period required under Section 7 below. Any refunds for suspected invalid impressions or clicks are within Google's sole discretion. EXCEPT FOR INDEMNIFICATION AMOUNTS PAYABLE TO THIRD PARTIES HEREUNDER AND CUSTOMER'S BREACHES OF SECTION 1, TO THE FULLEST EXTENT PERMITTED BY LAW: (a) NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, REVENUE, INTEREST, GOODWILL, LOSS OR CORRUPTION OF DATA OR FOR ANY LOSS OR INTERRUPTION TO CUSTOMER'S BUSINESS) WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY; AND (b) EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER IS LIMITED TO AMOUNTS PAID OR PAYABLE TO GOOGLE BY CUSTOMER FOR THE AD GIVING RISE TO THE CLAIM. Except for payment obligations, neither party is liable for failure or delay resulting from a condition beyond the reasonable control of the party, including without limitation to acts of God, government, terrorism, natural disaster, labor conditions and power failures.

6 Agency.

Customer represents and warrants that (a) it is authorized to act on behalf of and has bound to this Agreement any third party for which Customer advertises (a "**Principal**"), (b) as between Principal and Customer, the Principal owns any rights to Program information in connection with those ads, and (c) Customer shall not disclose Principal's Program information to any other party without Principal's consent.

7 Payment.

Customer shall be responsible for all charges up to the amount of each IO, or as set in an online account, and shall pay all charges in U.S. Dollars or in such other currency as agreed to in writing by the parties. Unless agreed to by the parties in writing, Customer shall pay all charges in accordance with the payment terms in the applicable IO or Program FAQ. Late payments bear interest at the rate of 1.5% per month (or the highest rate permitted by law, if less). Charges are exclusive of taxes. Customer is responsible for paying (y) all taxes, government charges, and (z) reasonable expenses and attorneys fees Google incurs collecting late amounts. To the fullest extent permitted by law, Customer waives all claims relating to charges (including without limitation any claims for charges based on suspected invalid clicks) unless claimed within 60 days after the charge (this does not affect Customer's credit

card issuer rights). Charges are solely based on Google's measurements for the applicable Program, unless otherwise agreed to in writing. To the fullest extent permitted by law, refunds (if any) are at the discretion of Google and only in the form of advertising credit for only Google Properties. Nothing in these Terms or an IO may obligate Google to extend credit to any party. Customer acknowledges and agrees that any credit card and related billing and payment information that Customer provides to Google may be shared by Google with companies who work on Google's behalf, such as payment processors and/or credit agencies, solely for the purposes of checking credit, effecting payment to Google and servicing Customer's account. Google may also provide information in response to valid legal process, such as subpoenas, search warrants and court orders, or to establish or exercise its legal rights or defend against legal claims. Google shall not be liable for any use or disclosure of such information by such third parties.

8 Indemnification.

Customer shall indemnify and defend Google, its Partners, agents, affiliates, and licensors from any third party claim or liability (collectively, "**Liabilities**"), arising out of Use, Customer's Program use, Targets, Creative and Services and breach of the Agreement. Partners shall be deemed third party beneficiaries of the above Partner indemnity.

9 Miscellaneous.

THE AGREEMENT MUST BE CONSTRUED AS IF BOTH PARTIES JOINTLY WROTE IT AND GOVERNED BY CALIFORNIA LAW EXCEPT FOR ITS CONFLICTS OF LAWS PRINCIPLES. ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE GOOGLE PROGRAM(S) SHALL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF SANTA CLARA COUNTY, CALIFORNIA, USA, AND GOOGLE AND CUSTOMER CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS. The Agreement constitutes the entire and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any other agreements, terms and conditions applicable to the subject matter hereof. No statements or promises have been relied upon in entering into this Agreement except as expressly set forth herein, and any conflicting or additional terms contained in any other documents (e.g. reference to a purchase order number) or oral discussions are void. Each party shall not disclose the terms or conditions of these Terms to any third party, except to its professional advisors under a strict duty of confidentiality or as necessary to comply with a government law, rule or regulation. Customer may grant approvals, permissions, extensions and consents by email, but any modifications by Customer to the Agreement must be made in a writing executed by both parties. Any notices to Google must be sent to Google Inc., Advertising Programs, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA, with a copy to Legal Department, via confirmed facsimile, with a copy sent via first class or air mail or overnight courier, and are deemed given upon receipt. A waiver of any default is not a waiver of any subsequent default. Unenforceable provisions will be modified to reflect the parties' intention and only to the extent necessary to make them enforceable, and remaining provisions of the Agreement will remain in full effect. Customer may not assign any of its rights hereunder and any such attempt is void. Google and Customer and Google and Partners are not legal partners or agents, but are independent contractors. In the event that these Terms or a Program expire or is terminated, Google shall not be obligated to return any materials to Customer. Notice to Customer may be effected by sending an email to the email address specified in Customer's account, or by posting a message to Customer's account interface, and is deemed received when sent (for email) or no more than 15 days after having been posted (for messages in Customer's AdWords interface).

August 22, 2006



AdWords Advertising Policies

Search AdWords Policies

Example: *pop-up or spelling policy*

Select your ad type:

Editorial & Format »

Content »

- [Academic Aids](#)
- [Aids to Pass Drug Tests](#)
- [Alcohol](#)
- [Anabolic Steroids](#)
- ['Anti' and Violence](#)
- [Automated Ad Clicking](#)
- [Bulk Marketing](#)
- [Copyright](#)
- [Counterfeit Designer Goods](#)
- [Data Entry Affiliates](#)
- [Dialers](#)
- [Drugs and Drug Paraphernalia](#)
- [e-Gold](#)
- [Fake Documents](#)
- [Fireworks and Pyrotechnic Devices](#)
- [Gambling](#)
- [Hacking and Cracking](#)
- [Miracle Cures](#)
- [Mobile Subscription Services](#)

[Policy Home](#) > [Text ads](#) > [Content](#)

Content Policy

The policies listed in this section complement our Terms and Conditions and describe Google's advertising policies with regards to products and services. These policies may apply to ads and the content of your site.

Application of our policies will always involve an element of discretion and we reserve the right to reject or approve any ads. As noted in our [Terms & Conditions](#), you represent and warrant that your advertisements and/or website comply with all applicable laws.

Academic Aids

Don't promote unacceptable academic aids.

Advertising is not permitted for academic aids. This includes 'test-taking' services in which someone takes an exam for someone else and academic paper-writing services providing custom/pre-written theses, dissertations, etc.

Aids to Pass Drug Tests

Don't promote aids to pass drug tests.

Advertising is not permitted for the promotion of products designed to help someone pass a drug test. This includes products such as drug cleansing shakes and urine test additives.

Alcohol

Don't promote unacceptable alcohol products.

Restrictions on the promotion of alcohol vary based on local regulations and type of alcoholic product:

- Ads are not permitted to directly promote hard alcohol and liqueurs. This means that hard alcohol cannot be promoted in ad text or be the purpose of your site (occupying a significant portion of your

- [Political Advertising](#)
- [Prescription Drugs and Related Content](#)
- [Prostitution](#)
- [Scams/Phishing for Personal Information](#)
- [Sexual & Adult Content](#)
- [Solicitation of Funds](#)
- [Template Sites for Ad Networks](#)
- [Tobacco and Cigarettes](#)
- [Traffic Devices](#)
- [Weapons](#)
- [Webmaster Guidelines Violations](#)

[Link »](#)

[View all policies »](#)

[Double Serving](#)

[AdWords Terms & Conditions](#)

[Google Privacy Policy](#)

[Advertising in China](#)

[Invalid Clicks](#)

site).

- Advertisements for beer may target countries where such ads comply with local regulations. However, beer ads may not target the United States, U.S. territories (American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands), India, Pakistan, Sri Lanka, Thailand, and Malaysia.
- Advertisements for champagne and wine are allowed everywhere that such advertisements comply with local regulations.
- Since we consider beer, wine, and champagne to be products intended for the sale and consumption by adults, ads promoting these products will be given a Non-FamilySafe status.
- Please note that some jurisdictions may enforce any of these additional regulations:
 - require government permits for the advertisement of alcoholic beverages,
 - prohibit advertisements for beverages with a certain level of alcohol content,
 - and/or require certain disclaimers in advertisements for alcohol beverages.

It is the advertiser's responsibility to comply with all local laws.

Anabolic Steroids

Don't promote anabolic steroids.

Advertising is not permitted for anabolic steroids, muscle-enhancing stacks and cycles, bodybuilding steroid supplements, and related content, irrespective of an advertiser's claims of legality.

'Anti' and Violence

Don't promote violence or advocate against a protected group.

Ad text advocating against any organization, person, or group of people is not permitted.

Advertisements and associated websites may not promote violence or advocate against a protected group.

A **protected group** is distinguished by their:

- Race or ethnic origin
- Color
- National origin
- Religion
- Disability
- Sex
- Age
- Veteran status
- Sexual orientation/Gender identity

Automated Ad Clicking

Don't promote automated ad clicking.

Advertising is not permitted for the promotion of automated ad clicking products and services.

Bulk Marketing

Don't promote bulk marketing products.

Advertising of bulk marketing products is not permitted if the stated or implied use of the following products is unsolicited spam:

- Email lists that are not opt-in
- Bulk email software
- Bulk messaging

Copyright

Don't promote copyrighted content without permission.

Copyrights are important business assets in which the copyright holder maintains exclusive rights. You must not use AdWords to promote the copying or distribution of copyrighted content for which you don't have consent from the copyright holder and which is not otherwise permitted by law.

To learn more about how we handle copyright issues within the AdWords program, view the Digital Millennium Copyright Act and our [copyright policy and procedures](#).

Counterfeit Designer Goods

Don't advertise counterfeit designer goods.

Advertising is not permitted for products that are replicas or imitations of designer goods. A replica good contains the trademarked name or logo of a designer brand but is not made by that brand.

Data Entry Affiliates

Don't advertise for data entry affiliate programs.

Advertising is not permitted for the promotion of data entry affiliate programs. This includes ads directing users to sites that promote the creation/data entry of more ads that direct users to the same site.

There are no exceptions to this policy, which is intended to protect both advertisers and AdWords users.

Dialers

Don't promote dialer-related products.

A dialer is a program that will cut your chosen internet connection and establish a new connection to a premium rate number. In order to protect our users and maintain the quality of advertising we display, we don't allow ads and sites that require or solicit the use of a dialer program.

Drugs and Drug Paraphernalia

Don't promote drugs and drug paraphernalia.

Advertising is not permitted for the promotion of drugs and drug paraphernalia. This includes drug accessories, illegal drugs, and herbal drugs such as salvia and magic mushrooms.

e-Gold

Don't promote e-gold or related products.

Advertising is not permitted for e-gold and e-gold related content. This includes, but is not limited to, e-gold exchange, e-gold investment, and e-gold accounts.

Fake Documents

Don't promote fake documents.

Advertising is not permitted for the promotion of false documents such as fake IDs, passports, social security cards, immigration papers, diplomas, and noble titles.

Fireworks and Pyrotechnic Devices

Don't promote fireworks or pyrotechnic devices.

Advertising is not permitted for the promotion of fireworks and pyrotechnic devices.

Gambling

Don't promote online gambling or related sites.

Advertising is not permitted for the promotion of online casinos and gambling activities.

This includes, but is not limited to, the following:

- sports books
- lotteries
- bingo
- poker

- sites that provide tips, odds, and handicapping
- software facilitating online casinos and gambling
- gambling tutoring online
- gambling related eBooks
- 'play for fun' gambling or casino games of skill including sites where the primary purpose is 'play for fun' gambling
- affiliate sites with the primary purpose of driving traffic to online gambling sites

Hacking and Cracking

Don't promote hacking and cracking sites.

Advertising is not permitted for the promotion of hacking or cracking and tools that aid in copyright infringement. For example, we do not permit:

- Sites that provide instructions or equipment to illegally access or tamper with software, servers, or websites
- Sites or products that enable illegal access of cell phones and other communications or content delivery systems/devices
- Mod chips, such as devices that unlock copyright protection
- Products that descramble cable and satellite signals in order to get free cable services
- Copied or backed-up version of software, CDs, or DVDs not intended for personal use
- Products or services that circumvent digital rights management technologies or technical protection measures for copyrighted works

Miracle Cures

Don't promote miracle cures.

Advertising is not permitted for the promotion of miracle cures, such as 'Cure cancer overnight!'

Mobile Subscription Services

Mobile subscription sites must display the required service details.

We allow the advertisement of mobile content services only when the site clearly and accurately displays price, subscription, and cancellation information. This includes, but is not limited to, sites that promote downloading ringtones, wallpaper, or text messages for predictions, love life advice, news, personality quizzes, and/or other entertainment services.

If your site promotes mobile content services and requires users to enter personal information such as names or phone numbers, your site must meet the following criteria:

1. Prominently display these details on the page where users first enter personal information (such as a

name or phone number):

- The identification of your service as a subscription
 - The price of the service
 - The billing interval (such as per week or once per month)
2. On the first page where users enter personal data, provide a prominent opt-in checkbox or other clear mechanism indicating that the user knowingly accepts the price and subscription service. The user should not be able to proceed without opting in.
 3. Clearly display cancellation information (or a clearly marked link to cancellation instructions) on your ad's landing page, the first page of your site users see after clicking on your ad.

All of the items above should be located in a prominent place on your webpage and should be easy to find, read, and understand.

Political Advertising

Political advertising is allowed.

We permit political advertisements regardless of the political views they represent. Stating disagreement with or campaigning against a candidate for public office, a political party, or public administration is generally permissible.

However, political ads must not include accusations or attacks relating to an individual's personal life, nor can they advocate against a protected group.

If you're soliciting political donations, your ad's landing page must clearly state that the donations are non-tax-deductible.

Political campaigns and candidates with questions about these policies are encouraged to contact our Elections Team at elections@google.com.

Prescription Drugs and Related Content

The promotion of prescription drugs and related content is restricted.

Google AdWords only accepts pharmaceutical advertising from pharmacies that are based in the U.S. or Canada. Pharmacy-related ad campaigns can only target the U.S., U.S. territories (American Samoa, Guam, Puerto Rico, U.S. Virgin Islands), and/or Canada. Ads for prescription drugs will not be displayed in other countries. Additionally, Google AdWords requires all online pharmacy advertisers and affiliates to be a member of the PharmacyChecker Licensed Pharmacy Program. Ads will not run until a valid PharmacyChecker identification number is provided.

Note that pet pharmacies and affiliates advertising pet prescription drugs when targeting the U.S. or Canada

must also be PharmacyChecker approved.

If you meet the above requirements and want to get started, review Google's [online pharmacy qualification process](#). If you are not granted a PharmacyChecker ID, we won't be able to run your ads. To be fair to all of our pharmacy advertisers, we make no exceptions.

Prostitution

Don't promote prostitution.

Advertising is not permitted for the promotion of prostitution.

Scams/Phishing for Personal Information

Don't use phishing or other scamming tactics.

Advertising is not permitted for sites collecting sensitive personal information or money with fake forms, false claims, or unauthorized use of Google Trademarks. Examples of personal information include email addresses, user names, passwords, and/or payment information.

Sexual & Adult Content

Sexual & adult content is restricted.

Advertising is not permitted for the promotion of child pornography, any sexually suggestive content involving children, or other non-consensual sexual material. We also do not permit ads promoting teen pornography or other pornography that describes models who might be underage.

Examples include, but are not limited to, advertisements for 'teen xxx', 'teen porn', and 'school girl' pornography. Please note that Google does not allow this content regardless of whether or not a site complies with government regulations on this kind of advertising.

While approvable adult-related ads can show in some countries, certain countries such as Germany, China, Korea, and India will not show any ads categorized as 'Adult Sexual Content' such as ads with any pornographic content. There may be other [effects of family status](#) on how your ads are served.

Solicitation of Funds

The solicitation of funds is restricted.

If the solicitation of funds is promoted in ad text, the ad's landing page should clearly display tax-exempt status such as 501(c)(3) status in the United States, and should state whether the donations are tax-deductible in full or in part. Other countries need to have an equivalent status (must be a registered charity or not-for-profit organization).

However, for the solicitation of political donations, the ad's landing page must clearly state that the donations are *not* tax-deductible.

Template Sites for Ad Networks

Don't promote template sites for ad networks such as AdSense.

Advertising is not permitted for the promotion of template sites for ad networks. This includes products and services that create template or pre-generated websites solely intended to profit from ads.

Tobacco and Cigarettes

Don't promote tobacco and cigarettes.

Advertising is not permitted for the promotion of tobacco or tobacco-related products, including cigarettes, cigars, tobacco pipes, and rolling papers.

Traffic Devices

Don't promote illegal traffic devices.

Advertising is not permitted for the promotion of radar jammers, license plate covers, traffic signal changers, and related products.

Weapons

The promotion of weapons is restricted.

Advertising is not permitted for the promotion of certain weapons, such as firearms, firearm components, ammunition, balisongs (switchblades), butterfly knives, and brass knuckles.

Webmaster Guidelines Violations

Don't promote unacceptable webmaster techniques.

Advertising is not permitted for the promotion of cloaking, keyword stuffing, search engine spamming, and doorway pages. These unacceptable techniques and services are described in the Google Webmaster Guidelines. Ads and sites promoting such techniques will be disapproved.

We also recommend that you comply with the rest of the Google Webmaster Guidelines which suggest best practices for web development.

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Exhibit G

Complimentary Ringtones

- 1 Select Your Carrier
- 2 Enter Your Phone Number
- 3 Get Your **COMPLIMENTARY RINGTONE**

Select Your Carrier



CELLULAR ONE



cricket

All Other Carriers

Select your cellphone carrier above then enter your phone number and start downloading complimentary ringtones to your phone in 10 seconds or less!

[free-ringtones-tocell.com](http://www.free-ringtones-tocell.com) "The internet's largest selection of Complimentary Ringtones." -*Mobile Review*

Welcome to [free-ringtones-tocell.com](http://www.free-ringtones-tocell.com)

Most people know what fun have custom ringtones can be on your phone. They help us express ourselves and be unique! Almost everyone loves hearing their favorite song play when someone calls. That's why [free-ringtones-tocell.com](http://www.free-ringtones-tocell.com) is the internet's #1 ranked website to download Ringtones, Wallpaper, Themes and Games for your cellphone. We have all the latest and greatest ringtones; From oldies, to rock, hip-hop, r&b.. You name it, we got it. You never have to listen to old over played ringtones with us. We stock all the top hits as well as all your favorites and oldies. Artist such as T-Pain, Flo Rida, Chris Brown, Timbaland, Rihanna, Alicia Keys, Sara Bareilles, Fergie, Snoop Dogg, Yael Naim, Sean Kingston and Thousands more! If you can think an artist or song its more than likely we have ringtone versions of them.

Your search has ended here! free-ringtones-to-cell.com makes it easy to get ringtones. We support ALL major cellphone providers. There is no nasty software to download, nothing to install on your computer. Simply select your carrier above, enter your number, choose your ringtones and send send them directly to your cellphone. Enter your number and browse around for a few minutes and you will see exactly what we mean. We have over 100,000 Ringtones in stock. We are positive you will not be disappointed. [Go Here](#) if you would like to see a preview of our ringtone download area. We send ringtones to your cellphone.

Navigation: [Home](#) | [All About Ringtones](#) | [Download Area Preview](#)

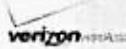
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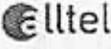
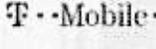
YOU QUALIFY FOR RINGTONES
OR GET TEXT TRIVIA! FOR \$9.99 A MONTH

STEP 1)
Enter Your Cell Number

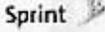
- -

CONTINUE ➤







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Choose from
hundreds and
hundreds!!

Get the latest
rings featuring your
favorite artists!



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Get a **COMPLIMENTARY** Ringtone or a **Cool Text Service** in just **3** Easy Steps!



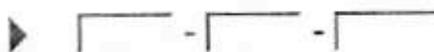
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vibrations!

Get the latest
hits featuring your
favorite artists!

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per month!

Step 1. Enter your phone number

Where should we send your ringtones?



NEXT STEP*

Step 1. Enter Number Step 2. Confirm PIN Step 3. Get Your Content!

VERIZON WIRELESS

T-Mobile



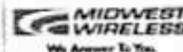
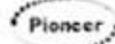
AT&T



CELLULARONE



PINEBELT



cricket

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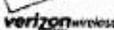
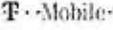
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Complimentary Ringtone offer is only for compatible handsets on **AT&T, Verizon Wireless, T-Mobile, Sprint PCS, Centennial Wireless, UNICEL and Cricket**. Joke SMS alerts will be offered to **Cellular One, Nextel, Virgin Mobile USA, Cincinnati Bell, US Cellular, SunCom, Boost and Alltel** users. This is a CSW Poly Ringtone, Color Wallpaper, Joke subscription service. By signing up for this service and by entering your personal PIN Code which will be sent to the cell phone number supplied by you on this website, you acknowledge that you are subscribing to our service. **AT&T** will be billed **monthly at 19.99** and receive credits for 20 Poly Ringtone. **VERIZON WIRELESS** will be billed **monthly at 9.99** and receive credits for 15 Poly Ringtone and credits for 5 Color Wallpaper. **T-MOBILE, SPRINT PCS, CELLULAR ONE, CENTENNIAL WIRELESS AND UNICEL** will be billed **monthly at 9.99** and receive credits for 15 Poly Ringtone. **NEXTEL, VIRGIN MOBILE USA, CINCINNATI BELL, US CELLULAR AND SUNCOM** will be billed **monthly at 9.99** and receive 3 Jokes a week. **BOOST** will be billed **monthly at 6.99** and receive 3 Jokes a week. **ALLTEL** will be billed **weekly at 5.99** and receive 3 Jokes a week. **CRICKET** will be billed **monthly at 5.99** and receive credits for 15 Poly Ringtone. All plans are subject to the Terms of Service. Games, Monophonic Ringtones, Operator Logos, and Picture Messages are not supported by T-Mobile. Users under 18 years of age require parents permission. Unused credits will not be rolled over to next month. Normal carrier charges (WAP, GPRS, SMS, MMS) apply. The charge will be billed on your wireless phone bill or deducted from your prepaid balance. For help send **"HELP"** to 71769. To cancel your plan, send a text **"stop"** to 71769 at anytime. In case of questions please contact customer service at care@ringtonetimes.com or call 1877 225 1198. Other Charges may apply.