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6 Attorneys for Defendant, AZOOGLEADS.COM, INC.

7
8 **UNITED STATES DISTRICT COURT**

9
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **ASIS INTERNET SERVICES**, a California
corporation,

12 Plaintiff,

13 vs.

14 **OPTIN GLOBAL, INC.**, a Delaware
15 Corporation, also dba Vision Media Limited
Corp., USA Lenders Network, USA Lenders,
16 and USA Debt Consolidation Service; et al.,

17 Defendants.

Case No. C-05-5124 JCS

**DECLARATION OF DEEPA
KRISHNAN IN SUPPORT OF
AZOOGLEADS.COM INC.'S
SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS**

[Separate Statement of Undisputed Material
Facts Filed Concurrently Herewith]

Date: March 14, 2008
Time: 1:30 p.m.
Ctrm: A, 15th Floor

The Honorable Joseph C. Spero

18
19
20
21 I, Deepa Krishnan, declare as follows:

22 1. I am an attorney admitted to practice in the State of California and the United
23 States District Court for the Northern District of California. I am an associate at the law firm of
24 Kronenberger Burgoyne, LLP (“Kronenberger Burgoyne”), counsel for Defendant
25 AzoogLeads.com, Inc. (“AzoogLe”).

26 2. I provide this declaration in support of AzoogLe’s Separate Statement of
27 Undisputed Material Facts, filed concurrently herewith. Unless otherwise stated, I have personal
28 knowledge of the matters stated herein.

1 3. I am informed and believe that counsel for Plaintiff and Azoogle agreed to
2 exchange draft statements of undisputed material facts (collectively, the “Facts”) as soon as
3 possible, with a target date of Friday, January 11, 2008. Plaintiff and Azoogle agreed they would
4 then meet and confer regarding the Facts.

5 4. On Monday, January 14, 2008 at approximately 12:00 noon, Azoogle sent a draft
6 set of Facts to Plaintiff. A true and correct copy of that email from Hank Burgoyne to Jason
7 Singleton is attached hereto as Exhibit “A”.

8 5. Over approximately the next 48 hours, Azoogle sent three updated versions of the
9 Facts to Plaintiff. During that time, Azoogle also attempted to contact Plaintiff regarding a meet
10 and confer on both parties’ versions of the Facts. Prior to Wednesday, January 16, 2008 at
11 approximately 9:30 a.m., Plaintiff did not offer a time to talk about Azoogle’s Facts.

12 6. From the morning of Wednesday, January 16, 2008, through the morning of
13 Friday, January 18, 2008, Azoogle and Plaintiff met and conferred on Plaintiff’s three versions of
14 its Facts. Plaintiff refused to meet and confer on Azoogle’s Facts, claiming they were numerous
15 and had been provided after the parties’ targeted date of exchange.

16 7. To expedite the meet and confer process, therefore, Azoogle offered to meet and
17 confer in person in the offices of Kronenberger Burgoyne before or after the deposition of Dr.
18 Fred Cohen, already set for January 17, 2007. Azoogle also offered to provide copies of cited
19 documents and depositions, in some cases highlighted, to make the process easier for Plaintiff. A
20 true and correct copy of this offer, from Hank Burgoyne to Jason Singleton, is attached hereto as
21 Exhibit “B”.

22 8. Plaintiff refused to participate. A true and correct copy of Plaintiff’s response is
23 attached hereto as Exhibit “C”.

24 9. Again, to expedite the process, Azoogle offered to meet and confer regarding
25 those of Azoogle Facts that Plaintiff deemed “immaterial”, if Plaintiff would spend a few minutes
26 reviewing them and then conferring with Azoogle. A true and correct copy of that email from
27 Azoogle’s to Plaintiff is attached hereto as Exhibit “D”.

28 10. As of today’s date, Plaintiff has not responded to the offer stated in the previous

1 paragraph.

2 11. As of today's date, Azoogole and Plaintiff have agreed to nine (9) joint Facts on
3 behalf of the Plaintiff. In the interest of expedient resolution of this matter, Azoogole is willing
4 and ready to meet and confer on all remaining Facts, both of its own and of Plaintiff, at any time
5 convenient to Counsel and the Court.

6
7 I declare under penalty of perjury of the laws of the United States that the foregoing is
8 true and correct and that this Declaration was executed on January 18, 2008, at San Francisco,
9 California.

10 _____ /s/

11 Deepa Krishnan

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Exhibit A

Deepa Krishnan

From: Hank Burgoyne
Sent: Monday, January 14, 2008 12:33 PM
To: 'Jason Singleton'
Subject: Attached: List of Undisputed Facts
Attachments: Undisputed Facts - First Batch to Plaintiff.doc

Attached is the first portion of our list of undisputed facts. We're compiling the rest today. We're also in the process of inserting cites, and will provide when done.

Since there are quite a few, the best way to proceed might be for you to single out any that you disagree with, and then for you and someone here to schedule a call to discuss.

Please call email with any questions.

Best,

Hank Burgoyne
KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108-4707
(415) 955-1155, x-116
(415) 955-1158 Fax
(415) 531-8125 Cell
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Exhibit B

Deepa Krishnan

From: Hank Burgoyne
Sent: Wednesday, January 16, 2008 3:09 PM
To: 'Jason Singleton'
Subject: RE: Azoogle's Combined Statement of Facts

Jason,

We'd discussed exchanging the statements last Thursday or Friday. The first portion of the statement was provided to you Monday morning. (You've made clear before that you don't work weekends, so I figured there was no reason sending it on Saturday or Sunday.) The second portion was provided yesterday morning. We began sending you messages to initiate a meet and confer on Monday. You didn't return any until yesterday, and then only to say that you'd talk today. Hard, under those circumstances, to say that they delay's all on this end.

I admit, the statement's much longer than expected. Though you wildly exaggerate the burden of responding. Most of the facts relate to uncontroverted matters. Most of the citations already are in the statement. Many of those citations are to declarations (Cohen, Graff, Burgoyne) that we're drafting and that will mimic, in most cases word for word, the language of the statement. If you don't have any facts in response – and for the vast, vast majority of the facts you can't and won't – say so.

I won't accept responsibility for not filing a joint statement. We're prepared to work through it, starting now and continuing, as you'd like, tomorrow when you're in our offices. (We can even provide you copies of the documents and depositions, in some cases highlighted.) One alternative would be for us to file our statement on Monday; we could still site in our brief to the numbered facts. Though I'm not at all happy about doing that, and will do it over objection lodged with the Court.

Re the stipulation, as would have been discussed if you'd called us this afternoon as promised, we'll stip to your docs if you stip to ours. We'll provide a list. Let us know.

Let me know,

Hank Burgoyne
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From: Jason Singleton [mailto:jason@singletonlawgroup.com]
Sent: Wednesday, January 16, 2008 2:50 PM
To: Hank Burgoyne
Subject: RE: Azoogle's Combined Statement of Facts

Exhibit C

Deepa Krishnan

From: Jason Singleton [jason@singletonlawgroup.com]
Sent: Wednesday, January 16, 2008 3:44 PM
To: Hank Burgoyne
Subject: RE: Azoogles's Combined Statement of Facts

Hank,

Our position has not changed. File your motion on the date it is due, and we will ours. We will let the court decide who is responsible for not getting a joint statement out. You have our revisions to our proposed joint statement, following my conversation with Deepa today. Please provide your response.

Please provide a list of documents to which you seek a stipulation for admissibility, and we will provide ours as well.

Take care,

Jason.

-----Original Message-----

From: Hank Burgoyne [mailto:Hank@kronenbergerlaw.com]
Sent: Wednesday, January 16, 2008 3:09 PM
To: Jason Singleton
Subject: RE: Azoogles's Combined Statement of Facts

Jason,

We'd discussed exchanging the statements last Thursday or Friday. The first portion of the statement was provided to you Monday morning. (You've made clear before that you don't work weekends, so I figured there was no reason sending it on Saturday or Sunday.) The second portion was provided yesterday morning. We began sending you messages to initiate a meet and confer on Monday. You didn't return any until yesterday, and then only to say that you'd talk today. Hard, under those circumstances, to say that they delay's all on this end.

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I won't accept responsibility for not filing a joint statement. We're prepared to work through it, starting now and continuing, as you'd like, tomorrow when you're in our offices. (We can even provide you copies of the documents and depositions, in some cases highlighted.) One alternative would be for us to file our statement on Monday; we could still site in our brief to the numbered facts. Though I'm not at all happy about doing that, and will do it over objection lodged with the Court.

Re the stipulation, as would have been discussed if you'd called us this afternoon as promised, we'll stip to your docs if you stip to ours. We'll provide a list. Let us know.

Let me know,

Hank Burgoyne
KRONENBERGER BURGOYNE, LLP

Exhibit D

Deepa Krishnan

From: Hank Burgoyne
Sent: Wednesday, January 16, 2008 4:15 PM
To: 'Jason Singleton'
Subject: RE: Azoogie's Combined Statement of Facts

If that's your position ...

To be clear, we've been wanting to discuss the separate statements – yours and ours – since Monday. And we're still willing to work to get both done. If there are facts that you think should be removed for being immaterial, let us know what they are. It would take you 10 minutes to go through the list with a pen and cross them out. It would then be up to us whether to include them in a separate statement. It would certainly narrow the list.

Keep in mind that “material facts” and “ultimate facts” are distinguishable. There's not a fact in our brief that isn't referenced in, and material to, our arguments. The reason there are so many is that, knowing the meet and confer would be difficult, we broke concepts into smaller subconcepts, such that if you disagreed with one or certain of them we could remove them without having to redraft the statement.

We'll provide the docs for which we seek a stipulation tomorrow, while you're in the office. Please provide copies of yours for us.

See you tomorrow, 1 pm.

Hank Burgoyne
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