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8 Attorneys for Defendant, AZOOGLEADS.COM, INC.

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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
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15 **ASIS INTERNET SERVICES**, a California
16 corporation,

17 Plaintiff,

18 vs.

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

21 Defendants.
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Case No. C-05-5124 JCS

**DECLARATION OF HENRY M.
BURGOYNE, III IN SUPPORT OF
AZOOGLEADS.COM, INC.'S
OBJECTIONS TO ASIS INTERNET
SERVICES' SUMMARY
JUDGMENT/SUMMARY
ADJUDICATION EVIDENCE**

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

The Honorable Joseph C. Spero

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25 I, Henry M. Burgoyne, III, declare as follows:

26 1. I am an attorney admitted to practice in the State of California and the United States
27 District Court for the Northern District of California. I am a partner at the law firm of
28 Kronenberger Burgoyne, LLP, counsel of record for Defendant AzoogleAds.com, Inc.

Case No. C-05-5124 JCS

**DECL. OF H. BURGOYNE IN SUP. OF
OBJECTIONS TO EVIDENCE**

1 (“Azoogle”). Unless otherwise stated, I have personal knowledge of the facts stated herein.

2 2. A true and correct copy of the Court Order Re June 27, 2007 Joint Letter, dated June
3 29, 2007, is attached hereto as Exhibit A.

4 3. A true and correct copy of ASIS Internet Services’s (“ASIS”) Response to Court-
5 Ordered Interrogatories, dated August 9, 2007, is attached hereto as Exhibit B.

6 4. A true and correct copy of ASIS’s Supplemental Response to Request for Production of
7 Documents No. 19, Set Two, dated August 21, 2007, is attached hereto as Exhibit C.

8 5. A true and correct copy of ASIS’s Amended Supplemental Responses to Requests for
9 Production, Set One, dated April 9, 2007, is attached hereto as Exhibit D.

10 6. A true and correct copy of the Subpoena in a Civil Case issued to Jeffrey Posluns on
11 September 27, 2007, is attached hereto as Exhibit E.

12 7. A true and correct copy of the Subpoena in a Civil Case issued to Jeffrey Posluns on
13 October 18, 2007, is attached hereto as Exhibit F.

14 8. A true and correct copy of the August 21, 2007 email ASIS counsel Jason Singleton
15 sent to me regarding Postini’s relationship with ASIS, is attached hereto as Exhibit G.

16 9. A true and correct copy of Plaintiff’s Opposition to Defendants’ Motion to Strike
17 Plaintiff’s Expert Jeffrey Posluns’ Report and Testimony, from *Phillips v. Netblue, Inc.*, Case
18 No. 05-cv-04401-SC, dated January 11, 2007, is attached hereto as Exhibit H.

19 10. A true and correct copy of excerpts from the certified deposition transcript of Jeffrey
20 Posluns is attached hereto as Exhibit I.

21 11. A true and correct copy of excerpts from the certified deposition transcript of Joshua
22 Mohland is attached hereto as Exhibit J.

23 12. A true and correct copy of excerpts from the certified deposition transcript of Carl
24 David Scoles is attached hereto as Exhibit K.

25 13. A true and correct copy of the November 7, 2007 email from Jason Singleton to my
26 colleague, Margarita Calpotura, where ASIS refuses to produce electronic versions of emails with
27 source code from ASIS expert Jeffrey Posluns, is attached hereto as Exhibit L.

28 14. A true and correct copy of an email chain between myself and Jason Singleton, where

1 Mr. Singleton maintains that ASIS’s investigators were “experts” who could be deposed, if at all,
2 only after expert designations, is attached hereto as Exhibit M.

3 15. A true and correct copy of the Memorandum Opinion in *Lorraine v. Markel American*
4 *Ins. Co.*, 241 F.R.D. 534 (D. Md. 2007), dated May 4, 2007, is attached hereto as Exhibit N.

5 16. A true and correct copy of the February 28, 2008 email I sent to Jason Singleton, in
6 which Azoogole requests that ASIS stipulate to the service of Dr. Cohen’s Third Supplementary
7 Disclosure, attached hereto as Exhibit O.

8 17. A true and correct copy of the email chain between myself and Jason Singleton, in
9 which Azoogole agreed to discuss authenticating stipulations regarding documents produced by
10 Quicken Loans, Inc., is attached hereto as Exhibit P.

11 18. A true and correct copy of Defendant’s Expert Witness Third Supplementary
12 Disclosure of Dr. Frederick B. Cohen is attached hereto as Exhibit Q.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is
14 true and correct and that this Declaration was executed this 29th day of February, at San
15 Francisco, California.

16 /s/
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18 Henry M. Burgoyne, III

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