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67	Attorneys for Plaintiff Google LLC		
8	UNITED STATES DISTRICT COURT		
9	NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION		
11			
12	GOOGLE LLC,	Case No. 3:	:23-cv-5824-SK
13 14	Plaintiff,	DECLARATION OF RHETT O. MILLSAPS II IN SUPPORT OF PLAINTIFF'S MOTION TO AUTHORIZE ALTERNATIVE SERVICE [FED. R. CIV. P. 4(F)(3)]	
15 16	v. NGUYEN VAN DUC, PHAM VAN THIEN,		
17	and DOES 1-20, Defendants.	Date: Time: Location:	January 8, 2024 9:30 a.m. Courtroom C, 15th Floor
19		Judge:	Hon. Sallie Kim
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I, Rhett O. Millsaps II, declare as follows:

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- 1. I am a member of the law firm Lex Lumina PLLC and counsel for Plaintiff Google LLC. I submit this declaration based on personal knowledge and following reasonable investigation. If called as a witness, I could testify competently to the truth of each statement.
- 2. I am familiar with Google's investigation into Defendants' identities, locations, and activities. I have reviewed materials related to this investigation, and I have discussed this investigation with the Google employees who conducted it.
- 3. As set forth in Google's complaint ("Complaint" or "Compl."), Defendants Nguyen Van Duc and Pham Van Thien are Vietnam-based bad actors who control dozens of Google Gmail accounts that Defendants have systematically abused to submit thousands of fraudulent notices of copyright infringement (or "Takedown Requests") to have Google remove listings of Defendants' competitors' websites from Google Search results. Compl. ¶ 1-2, 31-37. Defendants' conduct violates the Digital Millennium Copyright Act, 17 U.S.C. 512 (the "DMCA"), Google's Terms of Service ("TOS") and other policies, including the Gmail Program Policies, and state law. *Id.* ¶ 3, 17, 20-22, 44-60.

Google has identified active email addresses that Defendants recently used.

- 4. Google learned of Defendants' fraudulent activities after one of Google's customers reported that its website listings were being targeted and attacked by a deluge of fraudulent Takedown Requests, resulting in significant damages to Google. Google's investigation into the matter so far has uncovered thousands of fraudulent Takedown Requests targeting more than 117,000 URLs listed by third-party retailers, particularly t-shirt sellers, that were submitted by 65 Gmail accounts linked to each other and Defendants. Google's ongoing investigation has identified likely fraudulent takedown requests, also linked to Defendants, targeting more than half a million additional third-party URLs.
- 5. To identify Defendants, Google analyzed the Takedown Requests to identify related Gmail accounts and patterns linking them, such as claims to represent the same or similar t-shirt companies, the same or similar irrelevant links to content that Takedown Requests claimed were being

¹ For instance, clusters of Takedown Requests identify the same or similar companies that the submitters claimed to represent, such as "ShirtsThatGoHard," "TheGoodShirt," and variations on these names.

infringed,² and identical or nearly identical but irrelevant words, phrases, and blocks of text.³ Google further analyzed its internal records related to the Gmail accounts used to submit the Takedown Requests and found more than a dozen Gmail accounts that are related to each other based on shared names, recovery phone numbers or email addresses, and/or account creation IP addresses.

- 6. Additionally, these Gmail accounts were used to submit DMCA counter-notifications related to websites listed in clusters of false Takedown Requests. For instance, duchero93@gmail.com was used to submit a DMCA counter-notification related to www.premiumthing.net, which also is listed in a cluster of false Takedown Requests. A true and correct copy of that DMCA counternotification is attached hereto as **Exhibit 1**.
- 7. Among the Gmail accounts identified, Google has identified four key and currently active Gmail addresses used by Defendants: vanduc1993@gmail.com, duchero93@gmail.com, thienpv1982@gmail.com, and phamthaits@gmail.com. True and correct copies of excerpts of Google's subscriber records for these accounts are attached hereto as **Exhibits 2, 3, 4,** and **5**.
- 8. Defendants have used these Gmail accounts to submit numerous false Takedown Requests. Defendants also have listed these Gmail accounts as recovery email addresses for numerous other Gmail accounts used to submit false Takedown Requests.
- 9. Defendants have used each of these email addresses within the last several weeks. For example, the most recent login dates for each account are:
 - vanduc1993@: 2023-10-13 14:30:15 UTC. Ex. 2 at 1-2.
 - duchero93@: 2023-10-26 16:00:29. Ex. 3 at 1.
 - thienpv1982@: 2023-10-27 15:05:53 UTC. Ex. 4 at 1-2.
 - phamthaits@: 2023-10-27 17:50:42 UTC. Ex. 5 at 1.
 - 10. Accordingly, Defendants likely can be reached through each of these email addresses.

² For instance, Takedown Requests submitted by four separate but related Gmail accounts falsely claim tweets from https://twitter.com/J_FranklinMyers as their original copyrighted work being infringed.

³ For instance, the following sentence was found in Takedown Requests submitted by at least 11 different but related Gmail accounts: "This website steals images from our website, all of our images contain the copyright logo of our website. Please remove these links from google search results."

Google has identified phone numbers linked with the active Gmail Accounts.

number +84367320987 as the SMS recovery number. Exs. 2 at 1; 3 at 1.

the SMS recovery number. Ex. 5 at 1.

11.

12. The thienpv1982@ Gmail account uses the Vietnamese phone number +84941951777
as the SMS recovery number. Ex. 4 at 1.
13. The phamthaits@ Gmail account uses the Vietnamese phone number +84977276737 as

Both the vanduc1993@ and duchero93@ Gmail accounts use the Vietnamese phone

14. Accordingly, Defendants likely can be reached via text message at these phone numbers.

Google has determined that Defendants are based solely in Vietnam after investigating numerous U.S. addresses purportedly associated with Defendants.

- 15. Google has diligently investigated numerous websites and purported businesses with purported U.S. addresses that Defendants listed in connection with their fraudulent Takedown Requests and DMCA counter-notification. For example, Defendants submitted Takedown Requests purportedly on behalf of companies called "MyFrogtees" and "Premiumthing Fashion Store/PremiumthingLLC" in connection with websites, www.myfrogtees.com and www.premiumthing.net, that appear to sell t-shirts in the U.S. True and correct copies of examples of such Takedown Requests are attached hereto as **Exhibit 6**. Google's investigation, however, has revealed that MyFrogtees LLC and Premiumthing Fashion Store/PremiumthingLLC are not legal entities, and they appear to have no physical presence in the U.S., despite listing on their respective websites purported physical addresses in Albuquerque, New Mexico. Moreover, the listed Albuquerque addresses are in fact single-family homes, and the owners at each address appear to have no connection to Vietnam and credibly claim to have no knowledge of "MyFrogtees," "Premiumthing Fashion Store," or the named Defendants.
- 16. Defendants submitted the DMCA counter-notification attached hereto as **Exhibit 1** purportedly on behalf of "Premiumthing" with a purported address in Portland, Oregon. The listed Portland address, however, is a general contractor business named "Alejandro's" that appears to have no connection to Vietnam, "Premiumthing," or the named Defendants.
- 17. Defendant Nguyen submitted the following addresses in Vietnam as the billing addresses for the duchero93@ and vanduc1993@ Gmail accounts:

283 kha van can 1 76/36/44 duong 19 linh chieu thu duc HO CHI MINH, Thành phố Hồ Chí Minh, 700000, VN 2 129 Nguyễn Tri Phương 3 Phường Thành Công 4 Buôn Ma Thuột, Đắk Lắk, 63114, VN 5 18. Defendant Pham submitted the following addresses in Vietnam as the billing addresses 6 for the thienpv1982@ and/or phamthaits@ Gmail accounts: 7 208/17 Ly Nam De **Huong Long** 8 Hue, Thừa Thiên-Huế, VN 9 56 Nguyen Van Nguyen 10 Ho Chi Minh, Thành phố Hồ Chí Minh, VN 11 19. In addition to the Vietnamese phone numbers and addresses associated with Defendants' 12 aforementioned Gmail addresses, the IP addresses associated with the Gmail account logins indicate 13 that the aforementioned Gmail addresses were accessed by users in Vietnam and that the subject 14 Takedown Requests and DMCA counter-notifications were submitted from Vietnam. 15 20. Accordingly, based on Google's diligent investigations, we have determined that 16 Defendants are based in Vietnam with no physical presence in the U.S. 17 21. Google cannot determine without incurring significant additional expenses and delay 18 whether the Vietnam addresses listed by Defendants are reliable, or if service via registered mail will 19 reach Defendants at those addresses. Nonetheless, out of an abundance of caution, Google is mailing 20 service copies of the summonses, complaint, and the Court's standing Orders to Defendants' alleged 21 physical addresses in Vietnam by registered mail with return receipt requested. 22 I declare under penalty of perjury that the foregoing is true and correct to the best of my 23 knowledge. 24 25 Dated: November 21, 2023 Los Angeles, California /s/ Rhett O. Millsaps II 26 Rhett O. Millsaps II 27 28 5