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E-FILED on 9/14/05

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CLICK DEFENSE, INC., a Colorado corporation, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

GOOGLE, INC., a Delaware corporation, and DOES 1 through 100, inclusive,

Defendants.

No. C-05-02579 RMW

ORDER (1) GRANTING DEFENDANTS' MOTION TO DISMISS AND (2) DENYING AS MOOT PLAINTIFFS' MOTION TO ENLARGE TIME TO FILE AN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

[Re Docket No. 8, 14]

Click Defense, Inc. ("Click Defense") sued Google, Inc. ("Google") for (1) breach of contract, (2) unfair business practices, (3) unjust enrichment, and (4) violation of California Business and Professions Code §§ 17200, *et seq.* On July 27, 2005 Google moved to dismiss Click Defense's negligence and unjust enrichment causes of action. Click Defense filed an opposition to Google's motion on August 19, 2005: one week after the deadline for filing an opposition had expired. Click Defense then filed a motion to enlarge time to file its opposition. The court has read the parties' papers and considered their arguments. For the reasons set forth below, the court (1) grants Google's motion to dismiss and (2) denies as moot Click Defense's motion to enlarge time.

ORDER (1) GRANTING DEFENDANTS' MOTION TO DISMISS AND (2) DENYING AS MOOT PLAINTIFFS' MOTION TO ENLARGE TIME TO FILE AN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

—C-05-02579 RMW

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1 Click Defense has agreed to dismiss its negligence cause of action. *See* Opp. Mot. Dism. at 2:21-
2 25 ("with respect to the cause of action for negligence, [p]laintiffs will not oppose the motion to dismiss").
3 In addition, at oral argument, counsel agreed to stipulate that Google will not challenge the enforceability of
4 the AdWords Program Terms in return for Click Defense dismissing its unjust enrichment cause of action.
5 The court dismisses these claims.¹

6
7 **III. ORDER**

8 For the foregoing reasons, the court (1) grants Google's motion to dismiss Click Defense's
9 negligence and unjust enrichment causes of action and (2) denies as moot Click Defense's motion for
10 enlargement of time.

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13 DATED: 9/14/05

/s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge

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27 _____
28 ¹ Click Defense's motion to enlarge time is thus moot.

