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3 710 Sansome Street
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Facsimile: (415) 397-7188

5 Attorneys for Plaintiff
6 GOOGLE INC.

E-filing

7
8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 **C-03 - 5340**

12 GOOGLE INC., a Delaware corporation,

Case No.

13 Plaintiff,

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT**

14 v.

15 AMERICAN BLIND & WALLPAPER
FACTORY, INC., a Delaware corporation
16 d/b/a decoratetoday.com, Inc., and DOES 1-
17 100, inclusive,

JF

EAI

18 Defendants.

1 For its complaint, Plaintiff Google Inc. (“Google”), by and through its attorneys Keker &
2 Van Nest, LLP, avers as follows:

3 **THE PARTIES**

4 1. Google is a corporation organized under the laws of the State of Delaware, with
5 its principal place of business in Mountain View, California, which is within the Northern
6 District of California. Google is, and was at all times herein mentioned, qualified to do business
7 in California. Google provides Internet search engine services to Internet users and advertising
8 services to individuals, businesses and educational and governmental entities involved in Internet
9 sales and marketing, including numerous individuals and entities within the jurisdiction of this
10 Court.

11 2. Defendant American Blind & Wallpaper Factory, Inc. d/b/a decoratetoday.com,
12 Inc. (“American Blind”), is a corporation organized under the laws of the State of Delaware.
13 Based on information and belief, American Blind is engaged in the business of selling blinds,
14 wallpaper, curtains, bedding, lighting and other furnishings and accessories related to interior
15 decorating, and advertises and sells such products via the Internet to customers within the
16 jurisdiction of this Court.

17 **VENUE AND JURISDICTION**

18 3. Jurisdiction is proper in this court because this litigation arises under federal law,
19 namely 17 U.S.C. § 1051 et seq. (Lanham Act). The Court has jurisdiction over this action under
20 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338(a) (trademarks), and 28 U.S.C. § 2201
21 (Declaratory Judgment Act).

22 4. This Court has personal jurisdiction over American Blind because American
23 Blind, on information and belief, conducts business in the State of California and within this
24 district, including contracts with California corporations and the advertising and sale of its
25 products through the Internet to California residents.

26 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1391(c).

27 6. An actual case or controversy has arisen between the parties. American Blind has
28 threatened litigation against Google, and has asserted that Google’s sale of keyword-triggered

1 advertising services constitutes trademark infringement. These statements threaten injury to
2 Google.

3 **GENERAL ALLEGATIONS**

4 **I. Google's Keyword-Triggered Advertising**

5 7. Google's free Internet search engine is the most widely-used Internet search
6 engine in the world. It answers hundreds of millions of user searches and covers billions of web
7 pages each day.

8 8. Google also sells a number of products and services to individuals and business,
9 educational and governmental entities. One of the programs Google offers to its business
10 customers is a keyword-triggered advertising program entitled "AdWords." Google has offered
11 this program since October 2000.

12 9. Google's AdWords program permits Google's advertising customers to purchase
13 advertising links associated with certain keywords. Google posts the links on the margins of its
14 search engine results pages based on whichever keywords appear in user queries posted to
15 Google's Internet search engine. Google's advertising customers pay Google based on the
16 number of Internet users who click on these advertising links.

17 10. Google's advertisers, not Google, select the keywords that will trigger their
18 advertisements. Thus, for example, a computer hardware retailer might select keywords such as
19 "computer," "hard drive," "memory," and the like. Then, whenever a user entered a search
20 string containing any of those keywords, that retailer's paid advertisement would appear
21 alongside the search results.

22 **II. The Present Dispute**

23 11. On July 23, 2002, Google received a letter from Susan Greenspon, an attorney at
24 Kelley Drye & Warren LLP ("Kelly Drye"), counsel to American Blind. A copy of that letter is
25 attached as Exhibit A hereto. Ms. Greenspon claimed that several of American Blind's
26 competitors "have purchased advertising keywords from Google that are identical or
27 substantially similar to [American Blind's] registered trademarks." Ms. Greenspon claimed that
28 American Blind is the registered owner of the following trademarks listed with the United States

1 Patent and Trademark Office (“USPTO”): “AMERICAN BLIND & WALLPAPER
2 FACTORY,” Reg. No. 2,022,025, “AMERICAN BLIND FACTORY,” Reg. No. 1,463,548, and
3 “DECORATETODAY,” Reg. No. 2,470,542. Ms. Greenspon further claimed that many of
4 American Blind’s competitors “have exploited the notoriety and success of [American Blind]”
5 and “flagrantly attempted to confuse customers and capitalize illegally on [American Blind’s]
6 goodwill and reputation by purchasing substantially similar keywords from search engines.”

7 12. Ms. Greenspon then presented a list of keywords whose use by Google’s
8 advertisers allegedly constituted infringement of American Blind’s registered marks, including
9 “american blind,” “american blind and wall covering,” “american blind and wallpaper,”
10 “american blind and wallpaper co,” “american blind and wallpaper company,” “american blind
11 and wallpaper discount,” “american blind and wallpaper factory,” “american blind and wallpaper
12 factory discount,” “american blind and wallpaper outlet,” “american blind company,” “american
13 blind discount,” “american blind factory,” “american blind wallpaper,” “american blind
14 wallpaper company,” “american blind wallpaper factory,” “american home decorating,”
15 “american wall covering,” “american wallpaper,” “american wallpaper and blind,” “american
16 wallpaper company,” “american wallpaper discount,” “american wallpaper factory,”
17 “americanblind,” “americanblindfactory.com,” “americanblindandwallpaperfactory.com,”
18 “americanhomedecorating.com,” “americanwallpaper,” “americanwallpaperfactory.com,”
19 “decorate today,” “decorate today discount,” “decoratetoday,” “decorate today.com,”
20 “decoratetoday .com,” “decoratetoday com,” “decoratetodaycom,” and “decoratetoday.com.”

21 Ms. Greenspon requested that Google “immediately” cease allowing its customers to purchase
22 any of these terms as advertising keywords, remove all such keywords from its customers’
23 advertising campaigns, and “remove all advertisers who have purchased such marks (including
24 Wallpaper Wholesaler, Tuggles.net, ezblinds, USA Wallpaper, Window Designer, and Blinds
25 Galore).”

26 13. Kelley Drye subsequently acknowledged that it had a conflict of interest in
27 representing American Blind, because it also represented Google in another matter. Google was
28 instructed to contact American Blind directly to resolve the matter.

1 14. On September 26, 2002, Rose Hagan, Google's Senior Trademark Counsel, spoke
2 with Bill Smith, an American Blind executive, and explained that Google could block American
3 Blinds trademarks "American Blind & Wallpaper Factory," "American Blind Factory," and
4 "DecorateToday" from being used as keywords by other Google customers, but that Google
5 could not block variant terms such as "American blind" or "American wallpaper," because these
6 were descriptive terms that other advertisers had the right to use. Ms. Hagan further explained
7 that the software that implemented Google's AdWords service used a "broad matching"
8 algorithm to deliver advertising results in response to user queries on Google's search engine,
9 and therefore, if advertisers had selected generic terms such as "blind" or "wallpaper," their
10 advertisements would be triggered by a user search for "American blind" or "American
11 wallpaper."

12 15. On January 10, 2003, Glenn Manishin, another attorney at Kelly Drye, sent an
13 email to Google repeating American Blind's contention that Google was selling advertising links
14 to American Blind's competitors that used keywords which infringed American Blind's
15 trademarks.

16 16. On July 11, 2003, Joe Charno, American Blind's Vice President of Marketing,
17 Advertising & E-Commerce, sent a letter to Google repeating American Blind's contention that
18 Google's sale of various keywords to its business customers permitted those entities to confuse
19 customers and "capitalize illegally" on American Blind's goodwill and reputation. A copy of
20 this letter is attached hereto as Exhibit B. Mr. Charno again presented Google with a list of
21 keywords whose use by Google's advertisers allegedly constituted infringement of American
22 Blind's registered marks. This list was substantially similar to the list of terms contained in Ms.
23 Greenspon's July 23, 2002 letter. Mr. Charno demanded that Google immediately cease
24 permitting The Blind Factory, a competitor to American Blind, to use these keywords in
25 keyword-triggered advertising. Mr. Charno stated that should Google not comply with its
26 request "in the next 7 days we will have no choice but to involve our legal department."

27 17. On November 12, 2003, Mr. Manishin sent an email to Google restating
28 American Blind's contention that Google was improperly allowing American Blind's

1 competitors to purchase terms associated with American Blind's registered marks as advertising
2 keywords. Mr. Manishin stated that American Blind "has asked us to prepare a Vuitton-type
3 lawsuit if the matter cannot be resolved." On August 6, 2003, Luis Vuitton SA sued Google and
4 its French subsidiary for trademark infringement arising out of Google's posting of links to
5 companies and other organizations that have paid to associate themselves with certain keywords.
6 Mr. Manishim also stated that "we value Google as a client and very much hope we can continue
7 to represent you on other matters in the future."

8 18. While Google has agreed to prevent other entities from using American Blind's
9 registered marks themselves as keywords, Google believes and maintains that descriptive terms
10 (including terms such as "blind," "wallpaper," and "factory," which are component parts of
11 American Blind's trademark) are not entitled to any such treatment, and that Google's sale of
12 keyword-triggered advertising does not violate the Lanham Act.

13 CLAIMS FOR RELIEF

14 CLAIM ONE

15 (Declaratory Judgment of Non-infringement of Trademarks, 15 U.S.C. § 1051 et seq.)

16 19. Google incorporates by reference the allegations contained in paragraphs 1
17 through 18, inclusive.

18 20. American Blind has claimed that Google's sale of keyword-triggered advertising
19 to various of its customers constitutes trademark infringement, and has threatened to bring a
20 lawsuit against Google on this basis.

21 21. An actual, present and justiciable controversy has arisen between Google and
22 American Blind concerning Google's right to sell keyword-triggered advertising to its customers.

23 22. Google seeks declaratory judgment from this Court that its current policy
24 regarding the sale of keyword-triggered advertising does not constitute trademark infringement.

25 PRAYER FOR RELIEF

26 WHEREFORE, Google respectfully requests that the Court:

27 23. Enter judgment according to the declaratory relief sought;

28 24. Award Google its costs in this action;

1 25. Enter such other further relief to which Google may be entitled as a matter of law
2 or equity, or which the Court determines to be just and proper.

3 **DEMAND FOR JURY TRIAL**

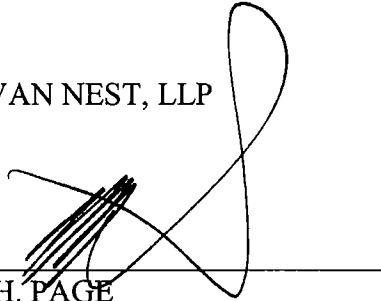
4 Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, Google hereby
5 demands a jury trial on all issues so triable.

6 Dated: November 26, 2003

 KEKER & VAN NEST, LLP

7
8 By: _____

 MICHAEL H. PAGE
 Attorneys for Plaintiff
 GOOGLE INC.



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EXHIBIT A

KELLEY DRYE

FACSIMILE TRANSMISSION

TO Ms. Alana Karen
 FIRM AdWords Trademark Complaints
 CITY Mountain View, CA
 FAX 650-618-1499
 PHONE
 NO. OF PAGES 10 (including this page)
 DATE July 24, 2002

KELLEY DRYE & WARREN LLP
 333 WEST WACKER DRIVE
 SUITE 810
 CHICAGO, ILLINOIS 60608
 (312) 857-7070
 FAX (312) 857-7095

MESSAGE: Please see attached.

FROM Susan J. Greenspon
 PHONE (312) 857-7080
 E-MAIL sgreenspon@kelleydrye.com
 TIMEKEEPER ID 04500
 CLIENT NO. 014405-0002

NEW YORK, NY
 WASHINGTON, DC
 TYSONS CORNER, VA
 LOS ANGELES, CA
 CHICAGO, IL
 STAMFORD, CT
 PARSIPPANY, NJ

BRUSSELS
 HONG KONG
 AFFILIATE OFFICES
 BANGKOK
 JAKARTA
 MUMBAI
 TOKYO

IF PROBLEMS OCCUR DURING TRANSMISSION PLEASE CALL (312) 857-7238.

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KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

333 WEST WACKER DRIVE

CHICAGO, ILLINOIS 60606

(312) 857-7070

NEW YORK, NY
WASHINGTON, DC
TYSONS CORNER, VA
LOS ANGELES, CA
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM
HONG KONG

AFFILIATE OFFICES
BANGKOK, THAILAND
JAKARTA, INDONESIA
MUMBAI, INDIA
TOKYO, JAPAN

SUSAN J. GREENSPON

DIRECT LINE: (312) 857-7090

EMAIL: sgreenspon@kelleydrye.com

July 23, 2002

VIA FACSIMILE 650.618.1499 AND MAIL

Ms. Alana Karen
AdWords Trademark Complaints
Google
2400 Bayshore Parkway
Mountain View, CA 94043

Re: American Blind and Wallpaper Factory Trademark Complaints

Dear Ms. Karen:

We are trademark counsel to American Blind and Wallpaper Factory, Inc. d/b/a decoratetoday.com, Inc. ("ABWF"). In connection therewith, it has come to our attention that several of ABWF's competitors have purchased advertising keywords from Google that are identical or substantially similar to ABWF's registered trademarks. We understand that ABWF contacted Google to resolve this issue and was informed that Google would rectify this situation only if such competitors purchased ABWF's "full" trademark.

As you probably know, federal and state trademark law protects a trademark owner's commercial identity (goodwill, reputation and investment in advertising) by giving such owner the exclusive right to use the trademark for its goods or services. What you may not know is that trademark law also protects the trademark owner from any person or entity that uses a trademark (i.e. keyword, word, name, symbol or device) that so *resembles a trademark already in use as to be likely to cause confusion or mistake* in the marketplace. Furthermore, federal law protects trademarks that are unregistered.

ABWF is the owner of and has the exclusive rights to use the following trademarks registered with the United States Patent and Trademark Office ("USPTO"):

KELLEY DRYE & WARREN LLP

Ms. Alana Karen
July 23, 2002
Page Two

<u>Mark</u>	<u>Reg. Number</u>	<u>Reg. Date</u>
AMERICAN BLIND & WALLPAPER FACTORY	2,022,925	12/17/96
AMERICAN BLIND FACTORY	1,463,548	11/3/87
DECORATETODAY	2,470,542	7/17/01

(See enclosed web site pages from the USPTO).

ABWF is recognized and well known in the home decorating industry and to consumers nationwide as "American Blind" and "decoratetoday." Many of ABWF's competitors have exploited the notoriety and success of ABWF, and flagrantly attempted to confuse consumers and capitalize illegally on ABWF goodwill and reputation by purchasing identical or substantially similar keywords from search engines. ABWF has been vigilant in defending its marks from infringement and dilution at all costs. As an example, ABWF was awarded in the matter of *Decoratetoday.com, Inc. (d/b/a American Blind and Wallpaper Factory, Inc.) v. American Blind & Accessory Co., Inc. and Directory One, Inc.*, Case No. 01-CV-70804-DT, a permanent injunction by the United States District Court for the Eastern District of Michigan, permanently enjoining the defendants from using ABWF's "trademarks, service marks or the word 'American' in any variation or combination with the word 'Blinds' either singular or plural..." We would be glad to send you a copy of the Permanent Injunction Order if you would like to read it in its entirety. Please note that ABWF was successful in defending not only its registered marks, but marks that were confusingly similar thereto. Consequently based upon federal law and precedent, use of the following similar marks by Google's advertisers constitutes infringement of ABWF's registered marks:

american blind
american blind and wall covering
american blind and wallpaper
american blind and wallpaper co
american blind and wallpaper company
american blind and wallpaper discount
american blind and wallpaper factory
american blind and wallpaper factory
discount
american blind and wallpaper outlet
american blind company
american blind discount
american blind factory

american blind wallpaper
american blind wallpaper company
american blind wallpaper factory
american home decorating
american wall covering
american wallpaper
american wallpaper and blind
american wallpaper company
american wallpaper discount
american wallpaper factory
americanblind
americanblindfactory.com
americanblindandwallpaperfactory

KELLEY DRYE & WARREN LLP

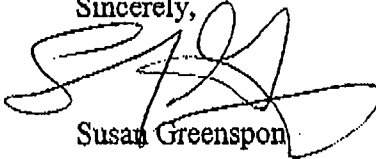
Ms. Alana Karen
July 23, 2002
Page Two

americanhomedecorating.com
americanwallpaper
americanwallpaperfactory.com
decorate today
decorate today discount
decoratetoday

decorate today.com
decoratetoday .com
decoratetoday com
decoratetodaycom
decoratetoday.com

In light of the foregoing, we request Google to immediately (a) cease selling ABWF's proprietary marks and marks similar thereto (as set forth above), (b) remove such marks from all campaigns, and (c) remove all advertisers who have purchased such marks (including Wallpaper Wholesaler, Tuggles.net, ezblinds, USA Wallpaper, Window Designer, and Blinds Galore). Please contact the undersigned at (312) 857-7080 with regard to how you wish to proceed with this matter.

Sincerely,



Susan Greenspon

SG/sec
Enclosures

cc: Steve Katzman



UNITED STATES PATENT AND TRADEMARK OFFICE



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[Logout](#) Please logout when you are done to release system resources allocated for you.

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[Check Status](#) (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

AMERICAN BLIND FACTORY

Word Mark AMERICAN BLIND FACTORY

Goods and Services IC 020. US 032. G & S: WINDOW BLINDS. FIRST USE: 19860410. FIRST USE IN COMMERCE: 19860410

Mark Drawing Code (S) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 73651046

Filing Date March 23, 1987

Published for Opposition August 11, 1987

Registration Number 1463548

Registration Date November 3, 1987

Owner (REGISTRANT) AMERICAN BLIND FACTORY, INC. CORPORATION
MICHIGAN SUITE 750 3000 TOWN CENTER SOUTHFIELD MICHIGAN
48075

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record ALLEN M. KRASS

TESS - Document Display

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BLIND FACTORY" APART FROM THE MARK AS SHOWN

Description of Mark THE LINING IN THE DRAWING DOES NOT REPRESENT COLOR.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	Browse/Dict	TOP	HELP	PREV LIST
CURR LIST	NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				



UNITED STATES PATENT AND TRADEMARK OFFICE



TESS was last updated on Tue Jul 23 04:28:42 EDT 2002

- PTO HOME TRADEMARK TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT BOTTOM HELP PREV LIST
- CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

Please logout when you are done to release system resources allocated for you.

List At: OR to record: Record 4 out of 11

Check Status

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)



Word Mark AMERICAN BLIND & WALLPAPER FACTORY
Goods and Services IC 042. US 100 101. G & S: retail mail order services in the field of wall and window coverings. FIRST USE: 19860500. FIRST USE IN COMMERCE: 19860500
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 090110 200302
Serial Number 74636528
Filing Date February 21, 1995
Published for Opposition September 24, 1996
Registration Number 2022925
Registration Date December 17, 1996
Owner (REGISTRANT) COLOR TILE, INC. CORPORATION DELAWARE 515 Houston Street Fort Worth TEXAS 76102
Assignment Recorded ASSIGNMENT RECORDED

TESS - Document Display

Attorney of Record Robert A. Felsman

Prior Registrations 1463548

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BLIND & WALLPAPER FACTORY" APART FROM THE MARK AS SHOWN

Description of Mark The lining shown in the drawing is a feature of the mark and not intended to indicate color.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DOC	TOP	HELP	PREV LIST
CURR LIST	NEXY LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				



UNITED STATES PATENT AND TRADEMARK OFFICE



TESS was last updated on Tue Jul 23 04:28:42 EDT 2002

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE LIST	BOTTOM	HELP	PREV LIST
CURR LIST	NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				

Please logout when you are done to release system resources allocated for you.

List At: OR to record: Record 2 out of 4

Check Status (TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark DECORATETODAY

Goods and Services IC 035. US 100 101 102. G & S: RETAIL STORE SERVICES AND ON-LINE RETAIL MAIL ORDER SERVICES IN THE FIELD OF WALL AND WINDOW COVERINGS AND HOME DECORATING PRODUCTS. FIRST USE: 20000400. FIRST USE IN COMMERCE: 20000400

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75841054

Filing Date November 4, 1999

Filed ITU FILED AS ITU

Published for Opposition May 16, 2000

Registration Number 2470542

Registration Date July 17, 2001

Owner (REGISTRANT) DECORATETODAY.COM, INC. CORPORATION DELAWARE 909 NORTH SHELDON ROAD PLYMOUTH MICHIGAN 48170

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Elizabeth F Janda

Type of Mark SERVICE MARK

Register PRINCIPAL
Live/Dead Indicator LIVE

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DOC	TOP	HELP	PREV LIST
CURR LIST	NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				

EXHIBIT B

American

Blinds, Wallpaper & More

7/11/2003

VIA E-MAIL DELIVERY & READ REQUEST

Rose A. Hagan
Senior Trademark Counsel
Google
2400 Bayshore Pkwy
Mountain View, CA 94043
Phone: 650-330-0100 ext. 1560
Fax: 650-618-1806
Email: hagan@google.com

Re: American Blinds, Wallpaper & More Trademark Claims

Ms. Hagan:

It has come to our attention that **The Blind Factory** has purchased advertising keywords from you that are identical or substantially similar to American Blinds, Wallpaper & More ("ABWM") registered trademarks (see attached screenshots). ABWM is hereby notifying you of its trademark infringement claims for prompt resolution.

As you probably know, federal and state trademark law protects a trademark owner's commercial identity (goodwill, reputation and investment in advertising) by giving such owner the exclusive right to use the trademark for its goods or services. What you may not know is that trademark law also protects the trademark owner from any person or entity that uses a trademark (*i.e.* keyword, word, name, symbol or device) that so *resembles a trademark already in use as to be likely to cause confusion or mistake* in the marketplace. Furthermore, federal law protects trademarks that are unregistered.

ABWM is the owner of and has the exclusive rights to use the following trademarks registered with the United States Patent and Trademark Office ("USPTO"):

<u>Mark</u>	<u>Reg. Number</u>	<u>Reg. Date</u>
AMERICAN BLIND & WALLPAPER FACTORY	2,022,925	12/17/96
AMERICAN BLIND FACTORY	1,463,548	11/3/87
DECORATETODAY	2,470,542	7/17/01

ABWM is recognized and well known in the home decorating industry and to consumers nationwide as "American Blind", "American Wallpaper" and "decoratetoday." Many of ABWM's competitors have exploited the notoriety and success of ABWM, and flagrantly

American

Blinds, Wallpaper & More

attempted to confuse consumers and capitalize illegally on ABWM's goodwill and reputation by purchasing identical or substantially similar keywords from search engines. ABWM has been vigilant in defending its marks from infringement and dilution at all costs. As an example, ABWM was awarded in the matter of *Decoratetoday.com, Inc. (d/b/a American Blind and Wallpaper Factory, Inc.) v. American Blind & Accessory Co., Inc. and Directory One, Inc.*, Case No. 01-CV-70804-DT, a permanent injunction by the United States District Court for the Eastern District of Michigan, permanently enjoining the defendants from using ABWM's "trademarks, service marks or the word 'American' in any variation or combination with the word 'Blind' either singular or plural..." We would be glad to send you a copy of the Permanent Injunction Order if you would like to read it in its entirety. Please note that ABWM was successful in defending not only its registered marks, but marks that were confusingly similar thereto. Consequently based upon federal law and precedent, use of the following similar marks by your advertisers constitutes infringement of ABWM's registered marks:

american blind
 american blind and wallpaper
 american blind and wallpaper company
 american blind and wallpaper factory
 american blind and wallpaper outlet
 american blind discount
 american blind wallpaper
 american blind wallpaper factory
 american wall covering
 american wallpaper and blind
 american wallpaper discount
 Americanblind
 Americanblindandwallpaperfactory
 Americanwallpaper
 decorate today
 Decoratetoday
 decoratetoday .com
 Decoratetodaycom

american blind and wall covering
 american blind and wallpaper co
 american blind and wallpaper discount
 american blind and wallpaper factory discount
 american blind company
 american blind factory
 american blind wallpaper company
 american home decorating
 american wallpaper
 american wallpaper company
 american wallpaper factory
 americanblindfactory.com
 americanhomedecorating.com
 americanwallpaperfactory.com
 decorate today discount
 decorate today.com
 decoratetoday com
 decoratetoday.com

In light of the foregoing, we request that you immediately cease selling ABWM's proprietary marks and marks similar thereto (as set forth above) to **The Blind Factory** and immediately remove the referenced keywords from their program. In the event our request is not complied with in the next 7 days we will have no choice but to involve our legal department.

I will follow up with a telephone call tomorrow to answer any questions that you may have and to confirm that you are going to comply with our request.

Sincerely,