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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

The Authors Guild, Inc., Associational Plaintiff, Betty Miles, Joseph Goulden, and Jim Bouton, individually and on behalf of all others similarly situated, Case No. 05 CV 8136-DC Plaintiffs, PLAINTIFFS' NOTICE OF **MOTION FOR** v. **PARTIAL SUMMARY JUDGMENT** Google Inc., FILED UNDER SEAL Defendant. **ECF CASE** (PUBLIC VERSION)

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Plaintiffs' Motion for Partial Summary Judgment; the Statement of Undisputed Facts pursuant to Local Civil Rule 56.1 annexed hereto, the Declaration of Joanne Zack dated July 26, 2012 and the exhibits annexed thereto, and all prior pleadings and proceedings in this case, the undersigned counsel for plaintiffs in the above-captioned action hereby will move this Court, pursuant to Rule 56 of the Federal Rules of

Civil Procedure, before the Hon. Denny Chin, United States Circuit Judge, on October 9, 2012 at 10:00 a.m., in Courtroom 11A at the United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, for an Order granting Plaintiffs' Motion for Partial Summary Judgment that:

- 1. Google's unauthorized reproduction, distribution, and display of incopyright books violates 17 U.S.C. §§ 106(1), (3), and (5);
- 2. Google's unauthorized reproduction, distribution, and display of incopyright books are not "fair uses" pursuant to 17 U.S.C. § 107; and
- 3. Under 17 U.S.C. § 504(c)(1), representative plaintiffs and members of the certified class are entitled to an assessment of statutory damages of \$750 per Book for Google's copying, distribution and/or display of Books in violation of 17 U.S.C. §§ 106(1), (3) and (5).

Dated: July 16, 2012

Jøanne Zack

Michael J. Boni (pro hac vice)

Joshua D. Snyder Joanne G. Noble

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