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10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 HYPERTOUCHE, INC.,)
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PLAINTIFF,)
CASE NO. C 04 5203 SI
OBJECTIONS TO WALTON
DECLARATION
VS.)
KENNEDY-WESTERN UNIVERSITY,)
DEFENDANT.)
HEARING: 24 FEBRUARY 2006, 9 A.M.
COURTROOM OF THE HON. SUSAN ILLSTON

17 Kennedy-Western University objects to the Walton declaration filed in opposition to
18 summary judgment on 3 February 2006 as follows:

19 The declaration was not timely filed per the Court's Scheduling Order (the opposition
20 was due the date the hearing was moved by the Court), and defendant objects to any
21 consideration of it on that ground.

22 Paragraph 3. Lacks foundation and personal knowledge, hearsay, improper
23 conclusion, not in conformance with Local Rule 7-5.

24 Paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13. Hearsay, lack of personal knowledge,
25 lack of foundation, improper layperson statements with no admissible supporting testimony,
26 not in conformance with Local Rule 7-5.

27 Paragraph 14. Lacks foundation, improper expert opinion, not in conformance with
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1 Local Rule 7-5, nowhere is there a tracing of an email received by Hypertouch, Inc. to
2 someone paid by KWU to send emails. As stated in competent testimony of Shea Park at
3 paragraph 16 of her declaration, although "initially" Peak believed an email (the modified
4 email attached to the complaint) came from Contour Media Group, Contour had been
5 terminated by that point for a prior complaint and tracing was no longer possible.

6 DATED: February 7, 2006

WOOLLACOTT JANNOL LLP

7 By Cynthia Woollacott
8 CYNTHIA WOOLLACOTT
9 Attorneys for defendant Kennedy-Western
10 University (signature on original)