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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

)	
IN RE QUANTCAST)	
ADVERTISING COOKIE LITIG.)	No. 2:10-cv-05484-GW(JCGx)
)	
IN RE CLEARSPRING)	
FLASH COOKIE LITIG.)	No. 2:10-cv-05948-GW(JCGx)
)	

HEARING ORDER

Upon the motion of plaintiffs A.A., a minor, by and through her parent Guardian Ad Litem, Jose Aguirre; Jennifer Aguirre; Alan Bonebrake; Alejandro Godoy; Byron Griffith; J.H., a minor, by and through his parent, Guardian Ad Litem, Jeff Hall; R.H., a minor by and through her parent Guardian Ad Litem, Jeff Hall; Mary Huebner; Erica Intzekostas; Jose Marquez; Kira Miles; Toni Miles; Terrie J. Moore; Austin Muhs; David Rona; Brittany Sanchez; Edward Valdez; Gerardo Valdez; Kayla Valdez; and Brian White (“Plaintiffs”) in the above-captioned class action lawsuits (the “Actions”), and defendants Quantcast Corporation (“Quantcast”); Clearspring Technologies, Inc. (“Clearspring”); American Broadcasting Companies, Inc.; Demand Media, Inc.; ESPN, Inc.; Fox Entertainment Group; Hulu, LLC; JibJab Media, Inc.; MTV Networks, a division of Viacom International Inc.; MySpace, Inc.; NBC Universal, Inc; Scribd, Inc.; Soapnet, LLC; Walt Disney Internet Group; and Warner Bros. Records Inc. (“Defendants,” with Plaintiffs and Defendants collectively referred to herein as the “Parties”); with reference to the Settlement Agreement among the Parties, filed December 3, 2010 but subject to the definition stated in Section 8.1 of that

1 agreement, and exhibits thereto (the “Settlement Agreement”); and upon all
2 prior proceedings conducted in these Actions, including hearings on December
3 16, 2010, January 13, 2011, January 24, 2011, February 28, 2011, and March 3,
4 2011, this Court hereby finds that reasonable cause exists to consider whether to
5 approve the proposed settlement set forth in the Settlement Agreement (the
6 “Settlement”) and to conduct a hearing, pursuant to Rule 23(e) of the Federal
7 Rules of Civil Procedure, to determine, *inter alia*: (a) whether the Settlement is
8 fair, reasonable, and adequate, and whether it should be approved pursuant to
9 Rule 23 of the Federal Rules of Civil Procedure; and (b) whether the application
10 of Plaintiffs’ counsel for an award of attorneys’ fees and reimbursement of
11 expenses and Plaintiffs’ request for the payment of incentive awards should be
12 granted,

13 **IT IS HEREBY ORDERED**, that:

14 1. The Court, for settlement purposes only, hereby conditionally
15 certifies pursuant to Rule 23(a) and Rules 23(b)(2) and 23(b)(3) of the Federal
16 Rules of Civil Procedure, a class consisting of all persons in the United States
17 who, during the Class Period, used any web browsing program on any device to
18 access one or more web sites or online content controlled, operated or sponsored
19 by Defendants; Undertaking Parties News Corporation, Viacom Inc., The Walt
20 Disney Company, or Warner Music Inc. or subsidiaries of affiliates thereof; or
21 any other internet site employing any of Clearspring’s or Quantcast’s technolo-
22 gies involving the use of HTTP “cookies” (“Cookies”) or local shared objects
23 stored in Adobe Flash Media local storage (“LSOs”).

24 2. The Court finds, with respect to the non-conduct-based por-
25 tions of the Settlement Agreement (*i.e.*, all those except as stated in Section IV.G
26 of the Settlement Agreement) that: (a) the number of Settlement Class Members
27 is so numerous that joinder of all members thereof is impracticable; (b) there are
28 questions of law and fact common to the Settlement Class; (c) the claims of the

1 named representatives are typical of the claims of the Settlement Class they seek
2 to represent; (d) the Plaintiffs will fairly and adequately represent the interests of
3 the Settlement Class; (e) the questions of law and fact common to the Settlement
4 Class predominate over any questions affecting only individual members of the
5 Settlement Class; and (f) a class action is superior to other available methods for
6 the fair and efficient adjudication of the controversy.

7 3. The Court finds, with respect to the conduct-based portions
8 of the Settlement Agreement specified in Section IV.G, that: (a) the number of
9 Settlement Class Members is so numerous that joinder of all members thereof is
10 impracticable; (b) there are questions of law and fact common to the Settlement
11 Class; (c) the claims of the named representatives are typical of the claims of the
12 Settlement Class they seek to represent; (d) the Plaintiffs will fairly and ade-
13 quately represent the interests of the Settlement Class; and (e) the Defendants
14 allegedly have acted or refused to act on grounds generally applicable to the
15 class, thereby making appropriate final conduct-based relief or corresponding
16 declaratory relief with respect to the class as a whole, if the Settlement Agree-
17 ment receives final approval.

18 4. A.A., a minor, by and through her parent Guardian Ad Litem,
19 Jose Aguirre; Jennifer Aguirre; Alan Bonebrake; Alejandro Godoy; Byron Grif-
20 fith; J.H., a minor, by and through his parent, Guardian Ad Litem, Jeff Hall;
21 R.H., a minor by and through her parent Guardian Ad Litem, Jeff Hall; Mary
22 Huebner; Erica Intzekostas; Jose Marquez; Kira Miles; Toni Miles; Terrie J.
23 Moore; Austin Muhs; David Rona; Brittany Sanchez; Edward Valdez; Gerardo
24 Valdez; Kayla Valdez; and Brian White, are appointed representatives of the
25 Settlement Class.

26 5. After considering the factors described in Rule 23(g)(1) and
27 (g)(2) of the Federal Rules of Civil Procedure, the Court appoints Scott A.
28 Kamber and David A. Stampley of KamberLaw, as Class Counsel.

1 6. The Court finds that the Settlement as set forth in the Settle-
2 ment Agreement falls within the range of reasonableness and warrants providing
3 notice of such Settlement to the members of the Settlement Class and, accord-
4 ingly, the Court, pursuant to Rules 23(c) and 23(e) of the Federal Rules of Civil
5 Procedure, preliminarily approves the Settlement upon the terms and conditions
6 set forth in the Settlement Agreement.

7 7. The Court sets a hearing to take place on June 13, 2011, at
8 9:30 a.m. before this Court, at the United States Courthouse for the Central
9 District of California, 312 North Spring Street, Los Angeles, California, to hear
10 all interested parties on whether: (i) the requirements for certification of the
11 Settlement Class have been met; (ii) the proposed settlement of the Actions in
12 accordance with the terms set forth in the Settlement Agreement, including as
13 part of the settlement the payment of Plaintiffs' Class Counsel's attorneys' fees
14 and reimbursement of Plaintiffs' Class Counsel's expenses as well as any incen-
15 tive awards to the Representative Plaintiffs, should be approved as fair, reason-
16 able and adequate; and (iii) the Judgment approving the settlement and dismiss-
17 ing the Actions on the merits and with prejudice against Plaintiffs and Settle-
18 ment Class Members should be entered (the "Fairness Hearing"). The Court
19 may adjourn the Fairness Hearing without further notice to the members of the
20 Settlement Class (except those Settlement Class Members who file timely and
21 valid objections).

22 8. The Court approves the form of the Legal Notice of Proposed
23 Class Action Settlement (the "Publication Notice"), substantially in the form of
24 Exhibit A.2 annexed to the Settlement Agreement, and approves the Notice of
25 Pendency of Class Action and Proposed Settlement (the "Longform Notice"),
26 substantially in the form of Exhibit A.3, annexed to the Settlement Agreement.

1 9. Non-substantive changes may be made to the Full Settlement
2 Notice and/or the Summary Settlement Notice by agreement of the Parties,
3 without further order of this Court.

4 10. The Court directs that the Settlement Class be given notice of
5 the proposed Settlement as follows: Summary Notice will be placed in Parade A,
6 Newsweek, Information Week and ComputerWorld magazines. In addition,
7 Internet advertisements using banner and text ads will be placed on the 25
8 websites that have the largest number of unique viewers per month on the Goo-
9 gle Adwords network. A press release will also be distributed on PR Newswire's
10 National Circuit to more than 5,800 traditional media sites and another 5,000+
11 online sites.

12 11. The Court finds that such notice to the members of the Set-
13 tlement Class as described above: **(a)** is the best notice practicable to members
14 of the Settlement Class; **(b)** is reasonably calculated, under the circumstances, to
15 apprise members of the Settlement Class of the pendency of the Actions, condi-
16 tional certification of the Settlement Class, the proposed Settlement, and the
17 rights of members of the Settlement Class to object to the Settlement; to request
18 exclusion from the Settlement Class; the application of Plaintiffs' counsel for an
19 award of attorneys' fees and reimbursement of expenses; and the application by
20 Representative Plaintiffs for an incentive award; **(c)** is reasonable and constitutes
21 due, adequate and sufficient notice to all persons and entities entitled to receive
22 notice; and **(d)** meets all applicable requirements of law including, but not
23 limited to, Rule 23(c) of the Federal Rules of Civil Procedure and the Due
24 Process Clause of the Fourteenth Amendment of the United States Constitution.

25 12. The Court directs Class Counsel and Defendant's counsel, on
26 or before April 22, 2011, to file with the Court evidence that the provisions of
27 paragraphs 9 and 10 of this Order have been satisfied.

28

1 13. The Court directs that any person or entity who is a member
2 of the Settlement Class and who wishes to exclude himself, herself, itself, or
3 themselves from the Settlement Class shall, in writing, by letter postmarked on
4 or before May 13, 2011, submit a request for exclusion that sets forth: **(a)** such
5 person's or entity's name and address, or the name and address of the person or
6 entity for which he, she or it is acting; and **(b)** a clear and unambiguous state-
7 ment that such person or entity wishes to be excluded from the Settlement Class.
8 Any person or entity who fails to timely and/or properly seek exclusion from the
9 Settlement Class as provided herein, shall be deemed members of the Settlement
10 Class for all purposes and shall be henceforth bound by all orders and/or judg-
11 ments of this Court. An exclusion will be considered submitted if marked with a
12 reference to In Re Quantcast Advertising Cookie Litigation, Case No. 2:10-cv-
13 05484-GW-JCG, and/or In Re Clearspring Flash Cookie Litigation, Case No.
14 2:10-cv-05948-GW-JCG and mailed to the following: Flash Cookie Settlement
15 Claims Administrator, c/o Rosenthal & Company LLC, P.O. Box 6177, Novato,
16 California 94948-6177. It shall be the class member's responsibility to ensure
17 receipt of any exclusion by the Claims Administrator.

18 14. Any person or entity who does not timely and/or properly
19 seek exclusion from the Settlement Class may, solely at the expense of such
20 person or entity, be heard personally or through counsel retained by such person
21 or entity solely at the cost of such person or entity, on: (a) whether the Settle-
22 ment is fair, reasonable, and adequate to Settlement Class members and whether
23 the proposed Settlement should or should not be approved by the Court; and/or
24 (b) the application of Class Counsel in the Actions for an award of attorneys'
25 fees and/or reimbursement of expense should or should not be granted. Any
26 Class Member who intends to object to this Settlement must include his/her
27 name and address, include all arguments, citations, and evidence supporting the
28 objection and that they are a member of the Class, and provide a statement

1 whether the objector intends to appear at the final fairness hearing, either with or
2 without counsel. An objection will be considered submitted if marked with a
3 reference to In Re Quantcast Advertising Cookie Litigation, Case No. 2:10-cv-
4 05484-GW-JCG, and/or In Re Clearspring Flash Cookie Litigation, Case No.
5 2:10-cv-05948-GW-JCG and mailed to the following: Flash Cookie Settlement
6 Claims Administrator, c/o Rosenthal & Company LLC, P.O. Box 6177, Novato,
7 California 94948-6177. It shall be the objector's responsibility to ensure receipt
8 of any objection by the Claims Administrator.

9 15. The Parties shall, by April 15, 2011, file and serve all papers
10 in support of the application for final approval of the Settlement, including the
11 provision for payment of attorneys' fees, reimbursement of expenses and an
12 award of to Representative Plaintiffs.

13 16. The Parties shall, by May 31, 2011, file and serve all papers
14 in response to any valid and timely objections received by the designated coun-
15 sel for the Parties identified in the Full Settlement Notice.

16 17. Defendants' have provided the notices required by the Class
17 Action Fairness Act of 2005, Pub. L. 109-2 (2005), including, but not limited to,
18 the notices to the United States Department of Justice and to the Attorneys
19 General of all states in which Settlement Class members reside, as specified in
20 28 U.S.C. § 1715.

21 18. Reference is made to (i) the 2008 Network Advertising Ini-
22 tiative Principles (the "NAI Principles"); and (ii) the "Self Regulatory Principles
23 for Online Behavioral Advertising" available at
24 <http://www.iab.net/media/file/ven-principles-07-01-09.pdf> (the "Self-Regulatory
25 Principles").

26 19. No later than thirty (30) days after entry of this Order, the
27 Undertaking Parties shall send a request to at least one of the industry groups
28 charged with receiving comments to the Self-Regulatory Principles that those

1 Self-Regulatory Principles should be amended to include express prohibitions
2 on the use of LSOs, or any similar technology, to regenerate, without disclosure,
3 HTTP cookies that a user affirmatively deleted. Additionally, the Undertaking
4 Parties shall request that the Self-Regulatory Principles be amended to include
5 guidance to member firms that LSOs should not be used without disclosure as
6 an alternative method to HTTP cookies for storing information about a user's
7 web browsing history across unaffiliated domains, unrelated to the delivery of
8 content through the Flash Player or the performance of the Flash Player in
9 delivering such content. If an Undertaking Party is a member of the Network
10 Advertising Initiative, the Undertaking Party also shall inform the Network
11 Advertising Initiative of its preference that the NAI Principles be similarly
12 amended.

13 20. Plaintiffs and all members of the Settlement Class and any
14 other person, representative, or entity acting on behalf of any members of the
15 Settlement Class are, until the Fairness Hearing, barred and enjoined from filing,
16 commencing, prosecuting, maintaining, intervening in, participating in (as
17 members of a class action or otherwise), any claim, lawsuit, arbitration, adminis-
18 trative, regulatory or other proceeding arising out of the Released Claims against
19 any of the Released Parties. The Court finds that issuance of this preliminary
20 injunction is necessary and appropriate in aid of the Court's jurisdiction over the
21 Actions and to protect and effectuate the Court's review of the Settlement.

22 21. If for any reason, the Effective Date of the Settlement does
23 not occur, this Order shall become null and void, and shall be without prejudice
24 to the rights of the parties, all of whom shall be restored to their respective
25 positions as of December 8, 2010, except that any extensions of time granted
26 since that date by one Party to the other shall continue to have force and effect,
27 and neither Party shall seek an order of default against any other Party for ac-
28 tions not taken while approval of the Settlement was pending, and the Settle-

1 ment and Settlement Agreement shall become null and void and be of no further
2 force and effect, and neither the Settlement Agreement nor the Court's orders
3 issued in connection with consideration of the Settlement, including this Order,
4 shall be used or referred to in any litigation for any purpose whatsoever, except
5 as required to enforce those provisions of the Settlement Agreement which
6 survive a failure of the Settlement to be consummated or the Effective Date of
7 the Settlement to occur.

8 22. Nothing in this Order shall be construed or used as an admis-
9 sion, concession, or declaration by or against any Defendant or Undertaking
10 Party for any fault, wrongdoing, breach or liability. Nor shall this Order be
11 construed or used as an admission, concession, or declaration by or against
12 Plaintiffs or the members of the Settlement Class that their claims lack merit or
13 that the relief requested in the operative Complaints in these Actions is inappro-
14 priate, improper, or unavailable, or as a waiver by any party of any defenses or
15 claims he, she, or it may have; nor shall this Order be construed as a finding or
16 conclusion of the Court with respect to the merit or lack of merit of any claim
17 asserted in the Actions or the defense to any Claim asserted in the Actions.

18 23. The Court retains exclusive jurisdiction over the Action to
19 consider all further matters arising out of or connected with the Settlement.
20

21 Dated: March 3, 2011

SO ORDERED, ADJUDGED AND DECREED



George H. Wu
Judge Of The United States District Court