

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FUNCTION MEDIA, LLC	§	
	§	
Plaintiff,	§	Civil Action No. 2007-CV-279
	§	
vs.	§	
	§	
GOOGLE INC. AND YAHOO!, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED

NOTICE OF THIRD RULE 30(b)(6) VIDEOTAPED DEPOSITION

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, on a date to be later specified and in a place to be later specified, counsel for plaintiff will take the deposition(s) of the designated representative(s) of Google Inc. (“Google”) able to testify fully as to the topics listed in Exhibit 1. Google has a duty to designate one or more officers, directors, managing agents, or other persons with sufficient knowledge to testify fully regarding the topics listed in Exhibit 1.

The deposition(s) will be taken before a Notary Public or some other officer authorized by law to administer oaths for use at trial. The above deposition(s) will be videotaped and will continue from day to day until completed.

Dated: June 8 2009

Respectfully submitted,

/s/ Max L. Tribble, Jr.

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served on counsel of record, this 8th day of June, 2009.

/s/ Jeremy J. Brandon

Jeremy J. Brandon

EXHIBIT 1

Definitions

1. “Google” means Google Inc., defendant in this action, as well as any parent company owning all or part of Google, and: (i) any Google subsidiary (either wholly or partly-owned), subcontractor, division, branch or department; (ii) any entity under the control of Google; (iii) any proprietorship, joint venture, partnership or other business cooperation involving Google; (iv) all Google predecessors-in-interest, representatives, successors-in-interest; (v) the present and former directors, officers, accountants, affiliates, attorneys, agents, employees, in-house and outside counsel or other persons under the control of Google, regardless of their affiliation or employment; (vi) any entity acquired by Google, and (vii) any other person acting or purporting to act on behalf of Google.
2. The term “patents-in-suit” refers collectively to the ‘045 patent, the ‘025 patent, and the ‘059 patent.
3. The “‘045 patent” means United States Patent No. 6,446,045 together with the application on which it issued, its entire prosecution history, and all foreign counterparts, including foreign applications and foreign prosecution histories.
4. The “‘025 patent” means United States Patent No. 7,240,025, together with the application on which it issued, its entire prosecution history, and all foreign counterparts, including foreign applications and foreign prosecution histories.
5. The “‘059 patent” means United States Patent No. 7,249,059, together with the application on which it issued, its entire prosecution history, and all foreign counterparts, including foreign applications and foreign prosecution histories.
6. Except where to do so would exclude information, use of the singular shall be taken to include the plural and vice-versa.
7. The terms “and” and “or” shall be construed conjunctively or disjunctively to make any request for information inclusive rather than exclusive.
8. The terms “any,” “each” and “all” shall each be construed to make any request for information inclusive rather than exclusive.

Topics

1. How, when, and through whom Google—including but not limited to any Google employee, subsidiary or patent-prosecution firm—first became aware of each of (a) the patents-in-suit, (b) the applications corresponding to the patents-in-suit, (c) any parent/child application related thereto, and (d) the inventors listed on the patents-in-suit.

2. Google's document-collection efforts in this litigation, including the identities of all custodians, groups, patent-prosecution firms, and Google subsidiaries that were searched and the scope of those searches.
3. The identity and general description of any Google-developed searching software that purports to allow subscribing companies to search their electronic files with ease, the implementation of this software or similar software within Google (or lack thereof), the reason for any non-implementation, and a description of Google's ability to conduct searches across its own e-mail servers and other servers containing electronic documents.