

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

**FUNCTION MEDIA LLC**

**Plaintiff,**

**vs.**

**GOOGLE INC. AND YAHOO!, INC.**

**Defendants.**

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**Civil Action No. 2007-CV-279**

**JURY TRIAL DEMANDED**

**NOTICE OF FIRST RULE 30(b)(6) DEPOSITION OF GOOGLE INC.**

**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 February 2, 2009, at 9:00 a.m. at the offices of Fish & Richardson P.C., located at 500 Arguello Street, Suite 500, Redwood City, CA 94063, counsel for Function Media LLC will take the videotaped deposition(s) of the designated representative(s) of Google Inc. best able to testify as to the matters set forth in Exhibit A. Google Inc. has a duty to designate one or more officers, directors, managing agents, or other persons with sufficient knowledge to testify for Google Inc. on information known to or reasonably available to it on these matters. Pertinent definitions are set forth in Exhibit B.

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 deposition(s) will continue from day to day until completed and will be both videotaped and recorded by stenographic means. All parties are invited to attend and examine the deponent(s).

DATED: January 8, 2009

Respectfully submitted,

MAX L. TRIBBLE, JR.

w/permission  
jb

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**CERTIFICATE OF SERVICE**

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

  
Jeremy J. Brandon

## EXHIBIT A

### DEPOSITION TOPICS

The topics listed below cover the time period from September 2002 to the present.

1. A detailed description and analysis of the functionality, features, software, and/or methodology of the Accused Products, including but not limited to the
  - a. functionality, features, and/or methodology of the AdWords interface and any predecessor interface used by sellers to input data,
  - b. functionality, features, and/or methodology of the AdSense interface and any predecessor interface used by media venues (*e.g.*, Internet, Print, Mobile) to input data,
  - c. functionality, features, and/or methodology of the My Client Center interface and any predecessor interface used by third-party professionals to input data,
  - d. functionalities, features, software, and/or methodologies of the Accused Products for creating, designing, formatting, processing, modifying, publishing, and/or displaying advertisements or advertisement content,
  - e. software and functions that utilize, apply, execute, process, or manipulate input data in the creation, design, formatting, processing, modification, selection, targeting, and/or publication of advertisements.
2. The history, versions, and releases of the Accused Products, including but not limited to the dates and differences in features and functionalities among such versions and releases as well as the integration of any acquired advertisement technologies, products, or services into Google's advertising technologies, products, or services.
3. The factual bases for Google's allegations of non-infringement asserted in its Answer in the above-captioned case, including
  - a. identification of any limitation of any asserted claim in the patents-in-suit that Google contends is not present in the Accused Products, and
  - b. the basis for each such contention.
4. How, when, and through whom Google first became aware of each of the patents-in-suit.

## EXHIBIT B

### DEFINITIONS

- A. "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.
- B. The term "patents-in-suit" refers collectively to the '045 patent, the '587 patent, the '025 patent, and the '059 patent.
- C. 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.
- D. The "'587 patent" means United States Patent No. 6,829,587, together with the application on which it issued, its entire prosecution history, and all foreign counterparts, including foreign applications and foreign prosecution histories.
- E. 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.
- F. 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.
- G. The term "sellers" means "sellers" as defined in the '045 patent.
- H. The term "media venues" means "media venues" as defined in the '045 patent.
- I. The term "third-party professionals" means "third party professionals" as defined in the '059 patent.
- J. The terms "publishing" and "publication" mean "publishing" as defined in the '045 patent.
- K. The term "Accused Products" means any products, systems, technologies, functionalities, or services made, used, offered for use, sold, offered for sale, marketed, or licensed by

Google utilizing AdWords, AdSense, or My Client Center, or any predecessor or successor technologies, products, or services, including any technology made, used, offered for use, sold, offered for sale, or licensed by Google that allows the creation, design, modification, processing, formatting, publication, or display of advertisements on media.

- L. Except where to do so would exclude information, use of the singular shall be taken to include the plural and vice-versa.
- M. The terms “and” and “or” shall be construed conjunctively or disjunctively to make any request for information inclusive rather than exclusive.
- N. The terms “any,” “each” and “all” shall each be construed to make any request for information inclusive rather than exclusive.