

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

FUNCTION MEDIA, L.L.C.	§	
	§	
Plaintiffs,	§	Civil Action No. 2007-CV-279
	§	
vs.	§	
	§	
GOOGLE, INC. AND YAHOO, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED

**MOTION TO EXPEDITE CONSIDERATION OF MOTION TO COMPEL**

Function Media respectfully requests that this Court expedite briefing and argument in the concurrently-filed Motion to Compel. Google opposes this request, but it has not given any reason why. Indeed, as Google has acknowledged, this issue is inextricably intertwined with Google’s Motion for Protective Order, with many overlapping facts. The Motion to Compel seeks documents from a group of senior-level Google officials. The Motion for Protective Order concerns whether three of those same executives can be deposed.

On July 25, 2009, Google admitted that these two motions should be heard together: “[I]t is most efficient for the parties and the Court if those apex witness issues are addressed at the same hearing.” Exh. E to Motion to Compel (email from Stan Karas to Justin Nelson). Given Google’s stated position, Function Media asked Google to reconsider its position on whether to expedite briefing on this motion, given that the briefing for the Motion for Protective Order will be complete next week. Google refused to reconsider, presumably not wanting a quick hearing on this point despite the upcoming discovery deadline and the length of time that this issue has

been a topic of discussion between the parties, as detailed in the accompanying motion and response.

Moreover, because the parties already will be in front of this Court on August 12, 2009 for the *Markman* hearing, Function Media respectfully suggests that it is most efficient for all parties to have the hearing on these two motions on that same date.

Function Media thus proposes the following schedule so that this Court can hear both the Motion for Protective Order and Motion to Compel on August 12:

July 28, 2009:	Opening Brief Due
August 5, 2009:	Response Due
August 10, 2009:	Reply Due
August 12, 2009:	Hearing

Respectfully submitted,

/s/ Justin A. Nelson  
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**CERTIFICATE OF CONFERENCE**

Counsel for plaintiffs have conferred with counsel for defendants on July 24-28, 2009.

They have indicated their opposition to this motion.

/s/ Justin A. Nelson

Justin A. Nelson

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record, who are deemed to have consented to electronic service are being served this 28th day of July, 2009 with a copy of this document via the Court's CM/ECF system per Local Rule CD-5(a)(3).

/s/ Justin A. Nelson

Justin A. Nelson