

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

FUNCTION MEDIA, L.L.C.,

v.

GOOGLE, INC. AND YAHOO!, INC.

Civil Case No. 2:07-cv-279 (CE)

**JURY TRIAL DEMANDED**

**NOTICE OF SUPPLEMENTAL AUTHORITY FOR GOOGLE'S MARKMAN BRIEF**

On July 27, 2009, after the claim construction briefing was complete, the United States Court of Appeals for the Federal Circuit issued a precedential opinion that directly relates to the construction of the means plus function claim limitations that are before the court.

The opinion is *Blackboard, Inc. v. Desire2Learn, Inc.*, \_\_\_ F.3d \_\_\_, No. 2008-1368, slip op. (Fed. Cir., July 27, 2009), which is attached hereto as Exhibit 1. Pages 20 through 27 of the opinion address means plus function limitations and in what circumstances such claims may be indefinite. *Blackboard* supports the arguments and authority recited at pages 3-14 of Google's Markman brief. See Dkt. # 98-01.

Dated: August 7, 2009

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on August 7, 2009 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Carl G. Anderson

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