EXHIBIT 1

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

DECLARATION OF WALTER BRATIC

1. My name is Walter Bratic. I am a Senior Consultant to CRA International, Inc. ("CRA"), and a Certified Public Accountant licensed to practice in the State of Texas. I have provided financial consulting services for over 30 years and have consistently worked on a broad range of intellectual property subject matter for over 30 years. I have testified in state and federal courts, and in tribunals related to intellectual property issues, including economic, financial, accounting, and business matters involving damages, technology trends, and industry licensing practices. I have been hired in the above-captioned case to provide an expert opinion on damages.

2. As part of my analysis, I intend to evaluate the reasonably royalty damages due to the plaintiff if the trier of fact determines that the remaining defendant, Google, Inc., has infringed the patents-in-suit. In the well-recognized *Georgia-Pacific*[1] case, the court set forth certain factors to be considered when determining a reasonable royalty. These factors, commonly referred to

---

[1] *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F. Supp. 116 (S.D.N.Y. 1970), modified, 446 F. 2d 295 (2d Cir. 1970), cert. denied, 404 U.S. 870 (1971).

as the *Georgia-Pacific* factors, are not absolute determinants of a reasonable royalty rate, but rather are guidelines to evaluating the likely actions of the parties in a hypothetical negotiation. Based on the facts and circumstances of the case, the factors are not necessarily given equal weight nor do I believe that the factors are all inclusive. Rather, the *Georgia-Pacific* factors are part of the overall analysis I shall perform.

3. Based on my examination of the record evidence to date, it appears that instead of taking a license from a company that offers a particular technology, Google often purchases the company and/or the rights to the technology. As part of my analysis of reasonable royalty damages in this matter, it is relevant to consider the value Google placed on various technologies it obtained through acquisitions.

4. A complete set of the purchase price and valuation information from Google's acquisitions is therefore of great relevance in attempting to ascertain the value Google ascribes to various transactions.

5. While information about ads-related transactions specifically is certainly relevant, it also is important to see broader price and valuation information from all Google acquisitions. Based on my review of the record, ads-related revenue comprises the vast proportion of Google's revenue. Google's public filings have previously stated that its ads-related revenue has been as high as 99% of its total revenue.[2] Given the synergies between Google's various products, it is not accurate to characterize a particular technology as being purely "non-ads-related." Therefore, the amount of money that Google pays

---

[2] See, for example, Google, Inc., SEC Form 10-K for the fiscal year ended December 31, 2008, pp. 19-20.

for non-ads related technology – which comprises a small subset of its current revenue base – is an important measure in determining the amount of money Google would pay for ads-related technology such as that related to the patents-in-suit.

6. I am still formulating my expert opinions in this case and discovery is ongoing. Therefore, I have not reached any conclusions yet about the amount that Google would have paid in a hypothetical negotiation. However, the information requested will help me formulate my expert opinions.

I declare under penalty of perjury that the foregoing is true and correct. Signed this 19th day of August, 2009, in Houston, Texas.

Walter Bratic