

# **EXHIBIT B**

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**From:** Justin A. Nelson [jnelson@SusmanGodfrey.com]  
**Sent:** Monday, August 03, 2009 6:34 PM  
**To:** Amy Candido; Carl Anderson; Stan Karas; Jeremy Brandon; Max L. Tribble; Joseph S. Grinstein  
**Cc:** cmaloney@icklaw.com; Google-Function Media; ccapshaw@capshawlaw.com; jrambin@capshawlaw.com; nancy@icklaw.com; charley@pbatyler.com; wolff@fr.com; ederieux@capshawlaw.com; gil@gillamsmithlaw.com; otiscarroll@icklaw.com; brooks@fr.com; rcbunt@pbatyler.com; katherine@icklaw.com  
**Subject:** RE: Function Media v Google

Amy --

Below are my notes about where we stand after our call this afternoon, along with some updates on our end. As a preliminary matter, we discussed having another call at 3 PM on Wednesday.

1. a. EMG Presentations -- We discussed that much of these documents were the subject of the previously-filed motion to compel. I stated that we'd like you to search more custodians -- specifically in corporate development and finance. We are going to revisit on Wednesday.

b. GPS Presentations -- There is a list of GPS presentations. You are searching for and producing these presentations -- hopefully by the end of the week or early next week. You also will look into providing us with the list so that we can determine relevancy too. Again, you will update us on Wednesday.

2. Board of Directors minutes and notes -- You are in the process of searching for and producing these and will provide us an update by Wednesday. I mentioned we wanted notes related to the accused products, financial issues, and the relevant acquisitions. You are also looking into whether Board of Director presentations exist. Again, you will provide an update on Wed. I am to provide you with a representative presentation to the Board of Directors. Since the call, I have looked for these. I point you to G002-777485, G002-777487, G002-3995235, and G002-3995236. The first and third are the cover emails, making clear that these come from the files of Jonathan Rosenberg -- strongly suggesting the necessity of searching his documents. The second cover email is a forward from Eric Schmidt to the EMG email list -- again, strongly suggesting the necessity of searching this email list and document custodian group.

3. Acquisitions -- You are going to get back to us by Wednesday on providing the basic price information, but you thinks it is do-able. You also are going to get back to us by Wednesday to search the corporate acquisition folks' files for relevant information. I mentioned that there appeared to be an "OMG" group that deals with acquisitions and mergers. I also mentioned that in the process of searching these files, you should search for our client too. You will give us an update on where things stand on this issue on Wednesday, with documents coming shortly. You agreed that you would search these

documents. We discussed -- but did not reach resolution on -- whether to search email and/or the scope of any email search for these custodians. Given your commitment to produce more documents on this subject shortly, we agreed to put off the deposition on Wednesday until later this month because these new documents will be right on point. We discussed Aug 28 or Sep 8 or 9 as dates. I will get back to you shortly.

4. Financial documents - You committed to produce these shortly (including the Earnings Call book and the pre-IPO financials), and will give us an update Wednesday. I asked her to search for presentations to the EMG or Board or similar groups as well as documents sufficient to show margin, revenue, and cost information.

5. Intellectual Ventures -- You will produce these documents too. You want us to confirm in writing that we don't have any responsive documents about IV. We will double-check on this.

6. Documents from 30(b)(6) witnesses -- You say that you never understood that the request was a custodial search of the 30(b)(6) witnesses. You asked us to consider whether we want a search. For the two upcoming depositions, we are agreed that as for Zoufonon, you do not have to produce custodial documents unless he has relevant knowledge under Point 3 above. The production in point 3 hopefully should result in a production of all relevant documents. For Curtiss, however, we have not received many documents about the national/international issue, and the production reveals very little about him. It was our understanding that the deposition was delayed by a month in order to search his files, and we request that you in fact search his files. Given that it does not appear possible to produce and review these before Friday's deposition, we should talk about rescheduling this deposition.

7. Documents from prior ads-related cases -- You stated that most of these will be produced in the next couple days, but expert reports may be a bit behind. You have to get them from all the law firms, and noted that you are trying to do so but that there may be some stragglers. You have not started to produce rogs because you did not realize the rogs were a part of our request. You asked us to consider whether we need these rogs. In the interests of comity, we agree that you do not have to produce interrogatory responses from the prior cases (except for Overture and Digital Envoy).

8. Prior Testimony -- You are producing forthwith any prior testimony, but there is not any for the upcoming witnesses. You state that we have not discussed whether to produce testimony and sworn statements from witnesses on your initial disclosure list. You noted that these depositions will appear in any event if they testified in an ads-related case. In the interests of comity, we agree that you do not have to separately pursue this for any persons who are on the initial disclosure list but who are not being deposed. We note, however, that many of these person are being or have been deposed here.

9. Patent Applications -- You are producing these, and we should expect to receive another huge batch in the next couple of days, which should be almost all of it. They have

to get these documents from the law firms, and there may be a couple stragglers, which you will produce in rolling fashion.

10. Overture litigation docs -- You state they were produced starting at G003-003678 -- which is the date of the July 8 letter. We will check this and get back to you.

11. You reiterated that you have produced all licenses, and will shortly produce a supplemental rog answer.

Let me know if you have anything to add or supplement to this. We look forward to speaking again on Wednesday.

Best,

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