

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

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

**JOINT MOTION TO EXTEND DISCOVERY DEADLINE**

Function Media and Google jointly move to extend the discovery deadline past Friday, September 18, 2009, for the limited purpose of completing the following discovery and depositions of which both parties are aware, but will not be completed by September 18. Such extension will **not** result in changing the trial date, currently set for November 2, 2009 for jury selection.

As an example of the discovery remaining, the parties agree that the following limited number of depositions will be conducted after September 18 due to scheduling conflicts and the unavailability of certain witnesses: Shoaib Hasan (9/21); Andrew Schulz (9/25); Jared Burke (9/29); Amin Zoufonon (9/29); Karen Delfau (9/30); Tomasz Tunguz-Zawislak (10/8); Greg Badros (10/21); Tom Shields (10/21); Tom Hutchinson (date unknown); Google Corporate Representative on Topics 28 and 29 from Second 30(b)(6) notice (date and person unknown); Corporate Representative of 24/7 Media.<sup>1</sup>

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<sup>1</sup> In addition, Google seeks to depose the Corporate Representative of Intellectual Ventures and Intellectual Ventures employee Elizabeth Holohan after September 18. Function Media opposes Google's request to take the depositions of Intellectual Ventures and Ms. Holohan after September 18. The dispute between the parties on this issue will be the subject of separate motions practice and is not covered by this agreement. Moreover, Function Media's requested depositions of Susan Wojcicki, Larry Page, and Sergey Brin are the subject of Google's pending Motion

As another example, the parties are still in the process of resolving certain discovery and document production issues and are hopeful that they can do so without Court intervention. In the event the parties cannot reach resolution, however, the parties agree that any motion to compel regarding discovery or document production issues raised on or before September 18 may be brought after September 18, with both parties reserving their rights to discuss other discovery issues should the circumstances arising thereafter warrant.

For the foregoing reasons, the parties jointly ask this Court to allow them to complete discovery already in process by September 18, 2009, but that will not be completed by such date.

Respectfully submitted,

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for a Protective Order To Preclude Depositions of Three Top-Level Executives, and will also take place after September 18, 2009 to the extent allowed by the Court.

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 18, 2009, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

/s/ Justin A. Nelson  
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