

**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**

**GOOGLE INC.'S NOTICE OF POTENTIAL SCHEDULING CONFLICT**

With respect to future scheduling in the above matter, lead counsel for Defendant Google Inc., Charles Verhoeven, learned yesterday after the close of business that the Federal Circuit scheduled oral argument in Bid for Position v. Google for December 8, 2009 in Washington, D.C. Mr. Verhoeven is lead counsel for Google in that matter and is expected to argue the appeal on December 8. Consequently, Mr. Verhoeven is unavailable on December 7-8. While we have not yet received the formal notice from the Federal Circuit, the Federal Circuit's Calendar Announcement is attached hereto as Exhibit A.

In addition, certain conflicts of which the Court was previously advised have not changed. Mr. Verhoeven has an ICC arbitration hearing on December 15, 2009 in Zurich, Switzerland in Hoechst GmbH and Sanofi-Aventis v. Genentech Inc. Due to that hearing and the constraints of international travel, Mr. Verhoeven is unavailable on December 14-17, 2009. Google's in-house counsel with primary responsibility for this matter, Shana Stanton, has a mediation in Australia on December 9, 2009 and, therefore, will be unavailable from December 7-11, 2009.

Dated: October 22, 2009

Respectfully submitted,  
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By: /s/ Amy H. Candido

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Counsel for Defendant and Counter-Claimant  
GOOGLE INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on October 22, 2009 to all counsel of record in this case.

/s/ Amy H. Candido

Amy H. Candido

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