

**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 EXPEDITE HEARING

Plaintiff Function Media LLC (“FM”) and Defendant Google, Inc. (“Google”) hereby move to expedite hearing on several motions pending before this Court. FM and Google respectfully request that the Court set a hearing at 1:30 p.m. on Tuesday, January 12, 2009, at which the parties will present argument on the following motions:

- Google’s Motion to Seal Documents and Close the Courtroom During Presentation of Confidential Material at Trial (Dkt. 190);
- FM’s Sealed Motion to Exclude Certain Expert Opinions (Dkt. 331)—Google will file a surreply to FM’s motion by Monday, January 11, 2009;
- FM’s Sealed Motion to Strike the Deposition Errata Sheet of Mireya Bravomalo (Dkt. 359)—Google will file its response by Monday, January 11, 2009;
- FM’s Sealed Motion for Clarification Concerning Defense Exhibit 213 (Dkt. 360)—Google will file its response by Monday, January 11, 2009.

In addition to the foregoing motions, FM’s Sealed Motion for Summary Judgment of No Inequitable Conduct (Dkt. 195) remains pending. However, the lawyers who are arguing that motion will be unavailable on Tuesday, January 12, 2009.

Trial in this matter is set to commence on January 19, 2009. Resolution of the motions referenced above is necessary to permit the parties to adequately prepare for trial. Accordingly, FM and Google respectfully request that this Court enter an Order granting the relief requested in this motion. A proposed Order is attached.

Respectfully submitted,

/s/ Max L. Tribble, Jr.

Max L. Tribble, Jr.
State Bar No. 20213950
Email: mtribble@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1000 Louisiana, Suite 5100
Houston, Texas, 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666

Lead Attorney for Plaintiff

OF COUNSEL:

Joseph S. Grinstein
State Bar No. 24002188
Aimée Robert
State Bar No. 24046729
SUSMAN GODFREY L.L.P.
1000 Louisiana Street, Suite 5100
Houston, Texas 77002-5096
Telephone: (713) 651-9366
Fax: (713) 654-6666
jgrinstein@susmangodfrey.com
arobert@susmangodfrey.com

Jeremy Brandon
State Bar No. 24040563
Warren T. Burns
State Bar No. 24053119
SUSMAN GODFREY L.L.P.
901 Main Street, Suite 5100
Dallas, Texas 75202-3775

Telephone: (214) 754-1900
Fax: (214) 754-1933
jbrandon@susmangodfrey.com
wburns@susmangodfrey.com

Justin A. Nelson
State Bar No. 24034766
SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, Washington 98101-3000
Telephone: (206) 516-3880
Fax: (206) 516-3883
jnelson@susmangodfrey.com

Robert Christopher Bunt
State Bar No. 00787165
Charles Ainsworth
PARKER, BUNT & AINSWORTH, P.C.
100 East Ferguson, Suite 1114
Tyler, Texas 75702
Telephone: (903) 531-3535
Fax: (903) 533-9687
rcbunt@pbatyler.com
charley@pbatyler.com

S. Calvin Capshaw
State Bar No. 037839000
Elizabeth L. DeRieux
State Bar No. 05770585
D. Jeffrey Rambin
CAPSHAW DERIEUX, LLP
Energy Centre
1127 Judson Road, Suite 220
P.O. Box 3999 (75606-3999)
Longview, Texas 75601-5157
Telephone: (903) 236-9800
Fax: (903) 236-8787
ccapshaw@capshawlaw.com
ederieux@capshawlaw.com
jrambin@capshawlaw.com

Otis Carroll
State Bar No. 03895700
Collin Maloney
State Bar No. 00794219

IRELAND, CARROLL & KELLEY, P.C.
6101 S. Broadway, Suite 500
Tyler, Texas 75703
Telephone: (903) 561-1600
Fax: (903) 581-1071
otiscarroll@icklaw.com
cmaloney@icklaw.com

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 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 attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Max L. Tribble, Jr. _____
Max L. Tribble, Jr.