

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

FUNCTION MEDIA, L.L.C.,

Plaintiff,

vs.

GOOGLE, INC. AND YAHOO, INC.,

Defendants.

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Civil Action No. 2007-CV-279

JURY TRIAL DEMANDED

**FUNCTION MEDIA'S IDENTIFICATION OF DOCUMENTS
FALLING OUTSIDE GOOGLE'S OBJECTION
TO ACQUISITIONS RELATED DOCUMENTS**

Coincident with this filing, Function Media LLC will submit to the Court Plaintiffs' trial exhibits concerning which outstanding objections remain. The documents fall into two categories: (1) Documents which Google alleges are inadmissible because they relate to acquisitions; and (2) IP Agreements Google alleges are irrelevant. Each category is marked for this Court's consideration. A listing of the documents by category is attached to this filing as Exhibit A.

During this Court's January 5, 2009 evidentiary hearing, counsel for Function Media offered to provide a list of documents Function Media contends are admissible notwithstanding Google's objection to acquisition-related documents. The following is a listing of such documents and a short statement as to the bases for admission. Google has informed Function Media that it will file a response.

Exhibit No.	Exhibit Description	Google Objections	FM Response
PX0108	Email from G. Rajaram to S. Wojcicki re Liberty: Post for the Google Blog (Rajaram 136)	Acquisitions	This is an internal Google e-mail that is also relevant to Google's market position and emphasis on core ads technology. The document is also relevant to Google's assertion of DoubleClick as prior art, demonstrating a distinction between technologies.
PX0110	Overview : Liberty Online Advertising Products (Rajaram 138)	Acquisitions	Relevant to DoubleClick prior art products, Google's market position, and Google's emphasis on core ads technology.
PX0439	Blinkfire Acquisition Review A component of Google's publisher strategy (Zoufonoun 720)	Acquisitions	Relevant to Google strategy, industry characteristics, and Google growth patterns.
PX0456	Google Inc. - Kaltix Corporation Closing Documents (Zoufonoun 737)	Acquisitions	Relevant to the Kaltix licensing agreement. This Court previously overruled a similar objection to Exhibit 743, another Kaltix document. As explained in the 01/05/09 hearing, Mr. Bratic is relying on the Kaltix licensing agreement.
PX0474	Google - Kaltix Corporation Closing Documents	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0513	Publisher AdServing Overview	Acquisitions	Relevant generally to AdSense for Content and Google's servicing of publishers through the accused products.
PX0690	E-mail to K. Aldrich from D. Drummond re outline for search consolidation analysis	Acquisitions	Relevant to Google's market position and competitive intelligence.
PX0721	Seller Disclosure Schedule between Galaxy Inc. and Search-1 Acquisition	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0722	Consent and Amendment to Agreement between Kaltix Corporation, The Board of Trustees of the Leland Stanford Junior University and Search-1 Acquisition Corporation	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0723	Letter to Google Inc. from Wilson Sonsini Goodrich & Rosati re Agreement and Plan of Merger dated September 25, 2003	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.

PX0724	Employment and Non-Competition Agreement between Google and Sepandar Kamvar	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0725	Officer's Certificate re: Agreement & Plan of Merger	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0726	Agreement and Plan of Merger among Google Inc., Search-1 Acquisition Corporation, Kaltix Corporation, The Founders and The Stockholder Representative	Acquisitions	Relevant to the Kaltix licensing agreement. <i>See</i> PX0456 FM Response.
PX0757	E-mail to M. Fuchs from A. Hiraki re Kaltix Acquisition Write-up (Purchase of Assets)	Acquisitions	Relevant to the Kaltix licensing agreement; also relevant to Google's market position and core technologies. <i>See</i> PX0456 FM Response.
PX0782	E-mail to P. Todd from A. Hansjee re Microsoft/Yadata acquisition	Acquisitions	Relevant to market position; elements of the accused products; and competitive intelligence.
PX1031	E-mail to N. Shivakumar from D. Jindal re Overture Content Match revealed	Acquisitions	Relevant to market position and competitive intelligence.
PX1689	"03/11/2008 Houlihan Lokey Valuation Analysis of Certain Assets of DoubleClick, Inc.	Acquisitions	Relevant to DoubleClick system asserted as prior art.

Respectfully submitted,

/s/ Max L. Tribble, Jr.

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CERTIFICATE OF CONFERENCE

The parties have conferred at multiple times concerning objections to Plaintiffs' Trial Exhibits. The exhibits referenced herein remain disputed.

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

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 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.
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