

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FUNCTION MEDIA, L.L.C.

vs.

GOOGLE INC. AND YAHOO, INC.

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CASE NO. 2:07-CV-279

**ORDER**

Pending before the court is the defendant Google Inc.'s ("Google") emergency motion for sanctions (Dkt. No. 387) against the plaintiff Function Media, L.L.C. ("FM"). Google contends that FM breached its discovery obligations by failing to disclose allegedly fraudulent activities of and lawsuits against Michael Dean, co-owner of FM and inventor of the patents-in-suit. These allegedly fraudulent activities and lawsuits relate to Mr. Dean's real estate transactions that occurred over a decade ago. Google argues that the court should continue this case, or alternatively, preclude Mr. Dean from testifying at trial and provide an adverse inference instruction to the jury. Google's motion is DENIED. Pursuant to Federal Rule of Evidence 608(b), Google shall first approach the bench before inquiring into these matters on cross-examination.

SIGNED this 19th day of January, 2010.

  
CHARLES EVERINGHAM IV  
UNITED STATES MAGISTRATE JUDGE