

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

FUNCTION MEDIA LLC

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v.

CIVIL ACTION NO. 2:07cv279 CE

GOOGLE, INC., ET AL

Jury Trial Day Five - Minutes
January 25, 2010

OPEN: 8:25 a.m.

ADJOURN: 5:35 p.m.

ATTORNEYS FOR PLAINTIFF:

Max Tribble
Joe Grinstein
Robert Parker
Justin Nelson
Jeremy Brandon

ATTORNEYS FOR DEFENDANTS:

Charles Verhoeven
Edward DeFranco
Amy Candido
Gil Gillam

LAW CLERK:

Jim Warriner

COURT REPORTER:

Shelly Holmes, CSR

COURTROOM DEPUTY:

Jan Lockhart, PLS, CP

8:25 a.m. Court opened. Hearing outside the presence of the jury.

8:27 a.m. Joe Grinstein presented argument on behalf of Plaintiff. Mr. Verhoeven presented argument on behalf of Defendant.

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8:28 a.m. The Court ruled.

Court adjourned until 8:30 a.m.

8:29 a.m. Jury entered courtroom.

8:33 a.m. Court opened. Mr. Verhoeven continued direct examination of Mr. Lanning.

10:09 a.m. Jury excused for morning break until 10:30 a.m.

10:10 a.m. Bench conference

10:11 a.m. Court recess.

10:30 a.m. Mr. Verhoeven continued his examination of Mr. Lanning.

11:10 a.m. Cross examination of Mr. Lanning by Mr. Grinstein.

12:01 p.m. Lunch recess until 1:15 p.m.

1:18 p.m. Jury back in courtroom.

1:19 p.m. Mr. Grinstein continued his examination of Mr. Lanning.

1:47 a.m. The parties passed the witness.

1:48 p.m. Mark Scheele was called by Mr. DeFranco to testify. Mr. Scheele was sworn and examined under oath.

2:19 p.m. Mr. Brandon conducted cross examination of Mr. Scheele.

2:33 p.m. Mr. DeFranco conducted re-direct examination of Mr. Scheele.

2:36 p.m. The parties passed the witness. Mr. Scheele was excused.

2:37 p.m. Mr. DeFranco called Sandi Mathers to testify. Ms. Mathers was sworn and examined under oath.

2:39 p.m. Mr. Brandon conducted cross examination of Ms. Mathers.

2:42 p.m. Mr. DeFranco conducted re-direct examination of Ms. Mathers.

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2:43 p.m. The parties passed the witness. Ms. Mathers was excused.

2:43 p.m. Bench conference.

2:44 p.m. Ms. Candido called Mike Wagner to testify. Mr. Wagner was sworn and examined under oath.

2:56 p.m. Bench conference.

2:56 p.m. Ms. Candido continued her examination of Mr. Wagner.

3:07 p.m. Mr. Verhoeven requested a moment to confer with counsel.

3:08 p.m. Ms. Candido continued her examination of Mr. Wagner.

3:15 p.m. Afternoon recess until 3:35 p.m.

3:36 p.m. Jury back in courtroom. Ms. Candido continued her direct examination of Mr. Wagner.

3:55 p.m. Bench conference.

3:56 p.m. Ms. Candido continued her examination of Mr. Wagner.

4:00 p.m. Mr. Tribble conducted cross examination of Mr. Wagner.

4:03 p.m. Bench conference.

4:04 p.m. Mr. Tribble continued his cross examination of Mr. Wagner.

4:05 p.m. Bench conference.

4:05 p.m. Mr. Tribble continued his examination of Mr. Wagner.

4:17 p.m. Audience asked to leave courtroom. Courtroom sealed.

4:18 p.m. Mr. Tribble continued his examination of Mr. Wagner.

4:19 p.m. Bench conference. Court gave witness instruction re answering question.

4:22 p.m. Bench conference.

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4:23 p.m. Mr. Tribble continued his cross examination of Mr. Wagner.

4:24 p.m. Bench conference.

4:25 p.m. Mr. Tribble continued his examination of Mr. Wagner.

4:35 p.m. Bench conference.

4:36 p.m. Mr. Tribble continued his examination of Mr. Wagner.

4:40 p.m. Audience asked to leave courtroom. Courtroom sealed.

4:41 p.m. Mr. Tribble continued his examination of Mr. Wagner.

4:42 p.m. Bench conference.

4:42 p.m. Mr. Tribble continued his examinaiton of Mr. Wagner.

4:45 p.m. Mr. Tribble passed the witness. Bench conference.

4:46 p.m. Ms. Candido conducted re-direct examination of Mr. Wagner.

4:49 p.m. Court inquired as to confidential information.

4:54 p.m. Re-cross examination of Mr. Wagner.

4:56 p.m. Re-direct examination of Mr. Wagner by Ms. Candido.

4:58 p.m. Parties passed the witness. Mr. Wagner was excused.

5:00 p.m. Mr. Todd Curtiss was called by Ms. Candido to testify. Mr. Curtiss was sworn and examined under oath.

5:07 p.m. Mr. Nelson conducted cross examination of Mr. Curtiss.

5:15 p.m. Ms. Candido conducted re-direct examination of Mr. Curtiss.

5:16 p.m. Bench conference.

5:17 p.m. Mr. Verhoeven stated that Defendant rests.

5:18 p.m. Jury excused until 8 :00 a.m.

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5:19 p.m. Hearing outside the presence of the jury. The Court heard argument on Google's reference to exclude with reference to patent activities

5:21 p.m Mr. DeFranco presented argument on behalf of Google. Mr. Grinstein presented argument on behalf of Plaintiff.

5:26 p.m. Court responded. Mr. Grinstein responded to Court's question re Motion in Limine.

5:27 p.m. The Court responded.

5:27 p.m. Mr. Grinstein responded further. The Court inquired further as to the motion in limine.

5:28 p.m. Mr. DeFranco presented further argument on behalf of Google.

5:29 p.m. The Court responded. Re function media's #47. The Court ruled.

5:30 p.m. Mr. Verhoeven addressed the Court re demonstratives to be used by the parties for closing argument.

5:31 p.m. Mr. Tribble responded to Mr. Verhoeven's argument. The Court responded. Parties to exchange demonstratives at 8:00 a.m.

5:32 p.m. Mr. Grinstein inquired as to the Court's procedure regarding Judgments as a Mater of Law. The Court responded. Mr. Verhoeven responded further.

5:35 p.m. Court adjourned.