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

FUNCTION MEDIA, L.L.C.	§	
	§	
Plaintiff,	§	Civil Action No. 2:07-CV-279-CE
	§	
vs.	§	
	§	
GOOGLE INC.	§	
	§	**JURY TRIAL DEMANDED**
Defendant.	§	

GOOGLE'S REPLY IN SUPPORT OF ITS MOTION FOR JUDGMENT AS A MATTER OF LAW REGARDING INVALIDITY

In its Response to Google's Motion for Judgment as a Matter of Law Regarding Invalidity, Function Media states that the jury verdict in Google's favor rendered Google's Motion moot. Google agrees. Cummings-Allison Corp. v. SBM Co., 2009 WL 40917160 at * 4 (E.D. Tex. Nov. 13, 2009) (denying Defendants' JMOL for no willfulness as moot in light of jury's finding of no willfulness); EMI Music Marketing v. Avatar Records, Inc., 364 F. Supp. 2d 337, 342 (S.D.N.Y. 2005) ("Because the jury found in favor of EMI with respect to Avatar's breach of contract theory of liability, EMI's Rule 50(a) motion with respect to that basis of liability is moot.").

Function Media also states that to the extent the Court required a response to the issues raised in Google's Motion, such a response could be found in its Motion for Judgment as a Matter of Law on Validity. Google filed an Opposition to that Motion on February 16, 2010, and respectfully refers the Court to that Opposition for information regarding Google's positions on prior art issues.[1]

[1] Moreover, Function Media's Motion for Judgment as a Matter of Law on Validity should be denied for the reasons set forth in Google's Motion for Judgment as a Matter of Law Regarding Invalidity.

Dated: February 19, 2010

Respectfully submitted,
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By: */s/ Edward J. DeFranco*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on February 19, 2010 to counsel of record in the manner agreed by the parties, via electronic mail.

/s/ Edward J. DeFranco
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