

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

FUNCTION MEDIA, L.L.C.

Plaintiff,

vs.

GOOGLE INC.

Defendant.

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Civil Action No. 2:07-CV-279-CE

JURY TRIAL DEMANDED

**GOOGLE’S REPLY IN SUPPORT OF ITS MOTION FOR
JUDGMENT AS A MATTER OF LAW REGARDING DAMAGES**

In its Response to Google's Motion for Judgment as a Matter of Law Regarding Damages, 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.").

Dated: February 19, 2010

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

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Counsel for Defendant and Counter-Claimant
GOOGLE INC.

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

Edward J. DeFranco