

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

FUNCTION MEDIA LLC	§	
	§	
Plaintiff,	§	Civil Action No. 2-007-CV-279
	§	
vs.	§	
	§	
GOOGLE INC. AND YAHOO!, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED

AGREED MOTION FOR PARTIAL DISMISSAL

FUNCTION MEDIA LLC, Plaintiff in the above-captioned action, and GOOGLE INC., one of the Defendants herein, hereby jointly move the Court as follows:

To dismiss with prejudice Plaintiff's cause of action against Defendant Google Inc. for infringement of U.S. Patent No. 6,829,587;

To dismiss without prejudice Defendant Google Inc.'s counterclaims alleging invalidity and/or unenforceability of U.S. Patent No. 6,829,587, together with any affirmative defenses pertaining to U.S. Patent No. 6,829,587;

To order that Plaintiff and Defendant Google Inc. shall each bear their own costs and attorneys' fees incurred in the prosecution and/or defense of Plaintiff's cause of action for infringement of U.S. Patent No. 6,829,587 and Google Inc.'s counterclaims and defenses regarding U.S. Patent No. 6,829,587; and

To order that none of the foregoing affects any rights, causes of actions, counterclaims, defenses, or allegations pertaining to the other three patents-in-suit in the above-captioned action (U.S. Patents No. 6,446,045; U.S. Patent No. 7,240,025; and U.S. Patent No. 7,249,059).

A proposed Order is attached.

Respectfully submitted,

FISH & RICHARDSON P.C.

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**COUNSEL FOR DEFENDANT AND
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**COUNSEL FOR PLAINTIFF AND
COUNTER-DEFENDANT
FUNCTION MEDIA LLC**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served via ECF on all counsel of record, this 30th day of January, 2009.

/s/ Jeremy J. Brandon

Jeremy J. Brandon