

## **Exhibit 2**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

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FUNCTION MEDIA, LLC, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 2007-CV-279 (CE)  
 )  
GOOGLE, INC. and YAHOO!, INC., )  
 )  
Defendants. )  
 )

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

ROUGH TRANSCRIPT ONLY  
30 (b)(6) Deposition of  
MATTHEW PLUMMER

\_\_\_\_\_  
Thursday, March 19, 2009

Reported by:  
GEORGE SCHUMER, CSR 3326 (03-417854)

REDACTED

1           MR. BRANDON: Q. What were the products called,  
2 during this pre-Overture time?  
3           MR. LUMISH: Same objection.  
4           THE WITNESS: That I can't speak to.  
5           MR. BRANDON: Q. What is your acurrent title at  
6 Yahoo, sir.  
7           A. Director of product management.  
8           Q. What do you do as director of product management?  
9           A. I oversee the conceptual design of the products  
10 that we should be building; enhancements to those  
11 products; release cadence for those products.  
12          Q. When you say "products;" are you referring both  
13 to Yahoo Search Marketing and Yahoo publisher network?  
14          A. No.  
15          Q. To what are you referring?  
16          A. We have -- personally I'm involved in a separate  
17 set of on-line advertising products.  
18          Q. What that separate set called?  
19          A. "APT from Yahoo."  
20          Q. Are you involved in anything other than APT for  
21 Yahoo?  
22          A. At the moment, no.  
23          Q. What is "APT for Yahoo"?  
24          MR. LUMISH: You can answer in general terms.  
25 Object as beyond the scope of the notice.

1 MR. BRANDON: I would say that an objection for  
2 beyond the scope is not proper in the Eastern District.  
3 And moreover, Mr. Plummer is here in his personal  
4 capacity.

5 MR. LUMISH: I'm not saying you can't ask him. I  
6 just want it to be clear he's not a 30(b)(6) witness on  
7 this topic.

8 THE WITNESS: APT for Yahoo is an out-serving  
9 platform.

10 MR. BRANDON: Q. What does that mean?

11 A. It is a platform that enables Yahoo to serve  
12 advertisements to users, and for Yahoo to manage how  
13 those -- how the inventory is priced and classified.

14 Q. When you say "a platform that enables Yahoo to  
15 serve advertisements to users," what sort of users are you  
16 referring to?

17 A. Regular users surfing the Internet.

18 Q. Where are the advertisements provided?

19 MR. LUMISH: Same objection.

20 THE WITNESS: Can you clarify your question,  
21 please?

22 MR. BRANDON: Q. To whom does Yahoo serve the  
23 advertisements?

24 A. On the apts platform?

25 A.

1 Q. Yes?

2 Q. So end users surfing web sites that belong to  
3 publishers that are working with Yahoo, using APT.

4 Q. When was APT released?

5 A. APT was first released in -- I believe the second  
6 quarter of 2008.

7 Q. So these are advertisements that appear on a web  
8 site's web page? To end users?

9 MR. LUMISH: Object to the form, and same scope  
10 objection.

11 THE WITNESS: These are advertisements that are  
12 delivered to the end user, who is viewing a web page.

13 MR. BRANDON: Q. And the advertisements are  
14 displayed on the web page?

15 A. They are displayed in a web browser that a user  
16 is using to look at a web page.

17 Q. So if I were to go to, say, CNN.com and I see ads  
18 on that web page, is that what you are referring to?

19 A. CNN.com is not a customer of APT.

20 Q. Give me an example of a customer of APT, please.

21 MR. LUMISH: Same objections.

22 THE WITNESS: San Francisco grate. SF gate.com.

23 MR. BRANDON: Q. If I was to go to SF gate.com  
24 and type that in my browser, a web page would appear on  
25 the screen; is that correct?

1 A. Through your browser; correct.

2 Q. And there would be content on that web page;  
3 correct?

4 A. That is correct.

5 Q. And one of the things I would see would be an  
6 advertisement that Yahoo has made available; correct?

7 A. An advertisement that Yahoo has delivered to you;  
8 correct.

9 Q. How is APT for Yahoo different than, say, Yahoo  
10 Publisher Network on line?

11 MR. LUMISH: Let me just interrupt you here.

12 The witness isn't here to talk about APT; it is  
13 not an accused product. Our objections were pretty clear  
14 on that. I've let you get some basic information about  
15 it, but if you want to delve into the technical details;  
16 the confidential material of it, I'm not going to permit  
17 that.

18 You'll have to bring a motion for protective  
19 order, if that's required. He's here, designated,  
20 prepared, ready to go on YSM, YPN -- everything you put in  
21 your infringements allegations. And that's it.

22 MR. BRANDON: He just testified, Mr. Lumish, that  
23 APT for Yahoo was not issued until the second quarter of  
24 2008, which is after our infringement contentions were  
25 served, as you know. He's here in his personal capacity,

1 **REDACTED**

2

3 **REDACTED**

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5 Q. For those advertisers who don't use the YSM on  
6 line interface, you said they may phone somebody at Yahoo;  
7 correct?

8 A. For advertisers that do not manage themselves  
9 directly through the software interface, they may phone  
10 somebody at Yahoo; correct.

11 Q. How does their content in that situation get  
12 inputted into the system?

13 MR. LUMISH: Object as beyond the scope.

14 You can answer if you know.

15 THE WITNESS: An advertiser may call their sales  
16 representative at Yahoo. The Yahoo sales representative  
17 would work with the advertiser to determine what, in the  
18 context you are talking about, the advertising content  
19 should be. There may be an exchange of e-mail so that  
20 there's not typos or translation issues with the content.

21 A sales representative would have a variety of  
22 ways to do that in putting. They may input that  
23 information into the system through an internal software  
24 interface. They may input it by directing it to somebody  
25 who does it on their behalf.

1 Q. How would that somebody that does it on their  
2 behalf -- how would that somebody do it?

3 A. Through a similar internal software interface.

4 Q. Do any advertisers use an API?

5 A. Different Yahoo customers indeed use an API,  
6 which is an application programming interface, instead of  
7 using a UI or a user interface through the web browser.

8 Q. So that's yet a third way that advertisers  
9 interact with the Yahoo Search Marketing system; right?

10 A. An advertiser could use the API as another way of  
11 interacting with the Yahoo Search Marketing platform.

12 Q. What advertisers use the API?

13 A. Any advertiser, again, who had the technology in  
14 house to do that, could use an API to talk to Yahoo  
15 platform.

16 Q. How many advertisers use the API?

17 MR. LUMISH: Same objection.

18 THE WITNESS: I don't know.

19 MR. LUMISH: Mr. Homrig is here, if you wanted to  
20 call the Court. You are heading down the same territory  
21 the Court will be addressing anyway.

22 MR. BRANDON: Sure, we can go ahead and call  
23 them. I've got the number here.

24 Let's to this on the record.

25 MR. LUMISH: We don't need to be on the video



1 A. They do not.

2 Q. Do they use another interface on line?

3 A. They do not.

4 Q. Are these the groups of publishers that -- for  
5 whom a person at Yahoo inputs information on their behalf?

6 MR. LUMISH: Object as to form.

7 THE WITNESS: A direct YPN publisher would  
8 contact their account management representative through  
9 whatever various means. That account management  
10 representative will to the required work internal to Yahoo  
11 on behalf of the publisher, based on the request.

12 MR. BRANDON: I guess let's go off the record and  
13 get Mr. Homrig in the room, and we can try to get the  
14 Court in.

15 THE VIDEOGRAPHER: This concludes Videotape 1 in  
16 the deposition of Matthew Plummer. Going off the record,  
17 the time is 11:59.

18 (Discussion off the record)

19 [Phone call made]

20 UNIDENTIFIED VOICE: Judge Guthrie's chambers

21 MR. LUMISH: Good afternoon, my name is Doug  
22 Lumish, an attorney in a case styled Function Media vs.  
23 Yahoo. We're in the middle of a deposition, and we have  
24 opposing counsel on the line, and we have a dispute that  
25 we're hoping Judge Guthrie might resolve for us.

1 UNIDENTIFIED VOICE: Are you calling the hot  
2 line?  
3 MR. LUMISH: Yes, ma'am.  
4 UNIDENTIFIED VOICE: Hold on just a moment.  
5 MS. TERRY GOODE: This is Terry Goode.  
6 MR. LUMISH: My name is Doug Lumish, an attorney  
7 for Yahoo. I've got opposing counsel, an attorney for  
8 Function Media on the line. We're having a dispute in the  
9 midst of a deposition, and we're hoping to get that  
10 resolved today.  
11 MS. TERRY GOODE: The hot line judge is not  
12 available. Who is your presiding judge?  
13 MR. LUMISH: Judge Everingham.  
14 MS. GOODE: Let him know the hot line judge is  
15 not available today. That's really all I can do for you.  
16 MR. LUMISH: Thank you very much.  
17 You want to do that, I assume?  
18 MR. BRANDON: Sure.  
19 [New phone call made]  
20 CLERK'S OFFICE: This is Clerk's office -  
21 Charlene.  
22 MR. LUMISH: I'm trying to reach Judge  
23 Everingham.  
24 CLERK'S OFFICE: I'll patch you through.  
25 UNIDENTIFIED VOICE: Debbie Latham -- is not

1 available at the moment.

2 MR. LUMISH: What do you want to do?

3 MR. BRANDON: Let's break for lunch, and then  
4 we'll try the judge when we get back.

5 MR. LUMISH: I don't think we want to waste time  
6 on the hot line anymore. Take an hour?

7 MR. BRANDON: Whatever works best for you all.

8 MR. LUMISH: You going to finish today?

9 MR. BRANDON: No way.

10 MR. LUMISH: Let's take an hour.

11 (Discussion off the record)

12 END MORNING SESSION

13 (Lunch recess, 12:10-1:15 p.m.)

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CERTIFICATE OF REPORTER

I, George Schumer, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing matter was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said proceeding was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript was not requested.

In witness whereof, I have subscribed my name.

DATED: \_\_\_\_\_

\_\_\_\_\_

George Schumer, CSR 3326