

# EXHIBIT 4

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

FUNCTION MEDIA, L.L.C.	§	
	§	
Plaintiff,	§	Civil Action No. 2007-CV-279
	§	
vs.	§	
	§	
GOOGLE INC. AND YAHOO!, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED

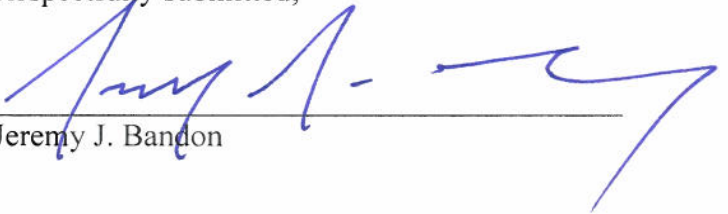
**DECLARATION OF JEREMY J. BRANDON IN SUPPORT OF  
FUNCTION MEDIA LLC'S MOTION TO COMPEL DISCOVERY  
FROM DEFENDANT YAHOO!, INC.**

I, Jeremy J. Brandon, declare:

1. I am an associate at Susman Godfrey, LLP, which is counsel for plaintiff, Function Media, L.L.C. ("Function Media"), in this litigation. The facts stated herein are true of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. Attached as Exhibit 1 is a true and correct copy of the March 7, 2008, Letter from Joe Grinstein.
3. Attached as Exhibit 2 is a true and correct copy of screenshots from Yahoo!'s APT website.
4. Attached as Exhibit 3 is a true and correct copy of excerpts from the transcript of Matthew Plummer's deposition, taken March 19-20, 2009.
5. Attached as Exhibit 5 is a true and correct copy of the Agreed Protective Order that has been entered in this case.

6. Function Media did not agree in an October 2008 telephone call or subsequent filing to waive forever its right to pursue discovery and/or amend its infringement contentions. Function Media did not pursue APT in October 2008 because [1] Yahoo had just announced APT and had not rolled out the new system in any meaningful sense and [2] there was not enough publicly-available information to enable a Rule 11 determination regarding infringement.

Respectfully submitted,



---

Jeremy J. Bandon