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

FUNCTION MEDIA, L.L.C.,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION
V.	§	
	§	NO. 2-07CV-279
GOOGLE, INC. and YAHOO!, INC.,	§	
	§	
Defendants.	§	
	§	
	§	
	§	

DECLARATION OF MICHAEL D. LANE IN SUPPORT OF YAHOO!, INC.'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL DISCOVERY INTO NON-ACCUSED TECHNOLOGY

I, Michael D. Lane, declare:

1. I am an associate at Weil, Gotshal & Manges, LLP, counsel for defendant,

Yahoo!, Inc. ("Yahoo"), 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 excerpts of Plaintiff's

Opposition to Defendants' Joint Motion for Leave to Further Supplement their P.R. 3-3 and 3-4

Disclosures, dated November 13, 2008.

3. Attached as Exhibit 2 is a true and correct copy of excerpts of Function

Media's Notice of First Rule 30(b)(6) Deposition of Yahoo!, dated January 8, 2008.

4. Attached as Exhibit 3 is a true and correct copy of excerpts of Yahoo!'s Objections and Responses to Plaintiff's Notice of F.R.C.P. 30(b)(6) Deposition of Yahoo!, dated February 9, 2009.

5. Attached as Exhibit 4 is a true and correct copy of excerpts of Function

Media's letter to Yahoo!, dated March 7, 2008.

6. Attached as Exhibit 5 is a true and correct copy of excerpts of Function Media's letter to Yahoo!, dated September 4, 2008.

Attached as Exhibit 6 is a true and correct copy of excerpts of Plaintiff's
First Set of Interrogatories to Yahoo!, dated August 25, 2008.

8. Attached as Exhibit 7 is a true and correct copy of excerpts of Yahoo! Inc.'s Objections and Responses to Plaintiff's First Set of Interrogatories to Yahoo!, dated October 31, 2008.

9. Attached as Exhibit 8 is a true and correct copy of Function Media's November 17, 2008 Letter to Yahoo!.

10. Attached as Exhibit 9 is a true and correct copy of excerpts of Function Media's First Set of Interrogatories to Yahoo!, dated November 17, 2008.

11. Attached as Exhibit 10 is a true and correct copy of Yahoo!'s Objections and Responses to Plaintiff's Second Set of Interrogatories to Yahoo!, dated December 17, 2008.

12. Attached as Exhibit 11 is a true and correct copy of Function Media's December 30, 2008 Letter to Yahoo!.

Attached as Exhibit 12 is a true and correct copy of Yahoo!'s First
Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories, dated February
20, 2009.

14. Attached as Exhibit 13 is a true and correct copy of Yahoo!'s February20, 2009 Letter to Function Media.

15. Attached as Exhibit 14 is a true and correct copy of excerpts of Yahoo!'s First Supplemental Objections and Responses to Plaintiff's Second Set of Interrogatories to

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Yahoo!, dated February 20, 2009.

16. Attached as Exhibit 15 is a true and correct copy of excerpts of the transcript of Matthew Plummer's deposition taken on March 19, 2009 and March 20, 2009.

17. Attached as Exhibit 16 is a true and correct copy of the Court's Order in *Epicrealm v. Autoflex*, 5-07-cv-00125, Dkt. No. 419, dated November 20, 2007.

18. Attached as Exhibit 17 is a true and correct copy of excerpts from the claim charts served with Plaintiff's First Amended P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions and P.R. 3-2 Disclosures, dated March 6, 2008.

19. Attached as Exhibit 18 is a true and correct copy of the Court's Order in *Mass Engineering Design, Inc. v. Ergotron*, 2:06-cv-272, Dkt. No. 195, dated January 8, 2008.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on April 30, 2009, at Redwood Shores, California.

DATED: April 30, 2009

/s/ Michael D. Lane

Matthew D. Powers <u>matthew.powers@weil.com</u> Douglas E. Lumish <u>doug.lumish@weil.com</u> Jeffrey G. Homrig <u>jeffrey.homrig@weil.com</u> Michael D. Lane <u>michael.lane@weil.com</u> WEIL, GOTSHAL & MANGES LLP Silicon Valley Office 201 Redwood Shores Pkwy. Redwood Shores, CA 94065 Tel: 650.802.3000 Fax: 650.802.3100

ATTORNEYS FOR DEFENDANT YAHOO!, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on this April 30, 2009. As of this date, all counsel of record has consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Michael D. Lane Michael D. Lane