

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

POLARIS IP, LLC

§

vs.

§

CASE NO. 2:07-CV-371-CE

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(1) GOOGLE INC.;

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(2) YAHOO! INC.;

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(3) AMAZON.COM, INC.;

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(4) A9.COM, INC.;

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(5) BORDERS, INC.;

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(6) BORDERS GROUP, INC.;

§

(7) AOL LLC;

§

(8) AMERICAN ONLINE, INC.;

§

(9) IAC/INTERACTIVE CORP; AND

§

(10) IAC SEARCH AND MEDIA, INC.

§

ORDER

Before the Court are Defendants' Motions (Nos. 37, 39, 40) to Dismiss or, in the Alternative, for a More Definite Statement, to Strike, and to Stay Discovery. For the reasons stated below, the undersigned denies the Motions to Dismiss and the Motion for a More Definite Statement, to Strike, and to Stay Discovery.

In *FotoMedia v. AOL*, the defendants asked this Court to heighten the pleading standards for willful infringement and indirect infringement claims in light of *Bell Atlantic v. Twombly*. See *FotoMedia Technologies, LLC v. AOL, LLC*, 2008 WL 4135906 (E.D. Tex. 2008), *Bell Atl. Corp. v. Twombly*, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2008). The Defendants in this case are asking the Court to impose similar, heightened standards. In *FotoMedia*, this Court rejected that request in light of a recent Federal Circuit decision. *FotoMedia*, 2008 WL 4135906, *McZeal v. Sprint Nextel Corp.*, 501 F.3d 1354 (Fed. Cir. 2007). For the same reasons as discussed in *FotoMedia*, the Court denies Defendants' Motion.

SIGNED this 23rd day of September, 2008.



CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE