

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

BRIGHT RESPONSE, LLC
F/K/A POLARIS IP, LLC,

Plaintiff,

v.

GOOGLE INC., ET AL.,

Defendants.

§
§
§
§
§
§
§
§
§
§

No. 2:07-cv-00371-CE

Jury Demanded

JOINT MOTION TO AMEND DOCKET CONTROL ORDER

Plaintiff Bright Response, LLC (“Bright Response”) and Defendants Google Inc., AOL, LLC, America Online, Inc. and Yahoo!, Inc. (collectively “Defendants”) file this Joint Motion to Amend the Docket Control Order with regard to certain pretrial deadlines based upon the new trial setting, and would show as follows:

1. Because the trial setting in this matter has been moved, the parties have conferred and agreed to revise certain pretrial deadlines in the current Docket Control Order. Specifically, the parties request that the following dates be entered by the Court:

DEADLINE OR EVENT	FORMER DATE (per Dkt. No. 115)	REVISED DATE
Jury Selection	Tuesday July 6, 2010	Monday August 2, 2010
Trial		Monday August 2, 2010 (per Dkt. No. 310)

Pretrial Conference Marshall, Texas	Tuesday June 29, 2010	Wednesday July 28, 2010 1:30 p.m. (per Court Notice/Order at Dkt. No. 311 resetting pre-trial conference)
Meet and confer regarding Motions in Limine The parties are ordered to meet and confer on their respective motions in limine and advise the court of any agreements in this regard by 1 p.m. p.m. the business day before the pretrial conference. The parties shall limit their motions in limine to those issues which, if improperly introduced into the trial of the case would be so prejudicial that the court could not alleviate the appropriate instruction(s).	June 28, 2010	Monday, July 26 12 noon
Deadline to complete meet and confer regarding witness lists, exhibits, and deposition designations	No Deadline on DCO	Friday, July 23, 2010
Responses to Motions in Limine due	July 2, 2010	Friday, July 23, 2010
Motions in Limine due	Tuesday June 22, 2010	Monday July 19, 2010
Objections to Witnesses, Deposition Designations, and Exhibits contained in the Joint Pretrial Order and Counter- Deposition Designations due	Friday June 22, 2010	Friday, July 16, 2010
Exchange of copies of trial	No deadline in	Monday, July 12, 2010

exhibits. The parties shall reach agreement regarding whether such exchange shall be in hard copy or electronic.	DCO	
Joint Pre-Trial Order, Joint Proposed Jury Instructions and Form of the Verdict, including identification of trial witnesses, exhibits, and deposition designations	Friday June 11, 2010	Friday July 9, 2010
Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Susan Simmons, at lssimmons@yahoo.com	Wednesday June 9, 2010	Wednesday July 7, 2010
Defendant to Identify Trial Witnesses	June 7, 2010	Tuesday July 6, 2010
Plaintiff to Identify Trial Witnesses	June 7, 2010	Tuesday July 6, 2010
Plaintiff and Defendants to exchange respective portions of Pre-Trial Order, Jury Instructions and Form of Verdict	No deadline in DCO	Friday July 2, 2010

Responses to Dispositive Motions ¹	June 14, 2010	In accordance with Local Rules, including timing for replies and surreplies, if any
Dispositive Motions	May 31, 2010	Tuesday June 29, 2010
Responses to <i>Daubert</i> motions	14 days after <i>Daubert</i> motion(s) filed	In accordance with Local Rules, including timing for replies and surreplies, if any.
<i>Daubert</i> motions	7 days after the close of Expert Discovery	
Fact and Expert Discovery Deadline	14 days after service of Rebuttal Expert Reports	
<ul style="list-style-type: none"> • Designate Rebuttal Expert Witnesses other than claims construction (Refer to Discovery Order for required information); • Rebuttal expert witness report due 	42 days after claim construction ruling	
<ul style="list-style-type: none"> • Party with burden of proof to designate Expert Witnesses other than claims construction • Expert witness reports due for parties with the burden of proof 	21 days after claim construction ruling	
Comply with P.R. 3-8	7 days after	

¹ The parties are directed to Local Rule CV-7(d), which provides in part that “[i]n the event a party fails to oppose a motion in the manner prescribed herein the court will assume that the party has no opposition.” Should a party file a dispositive motion earlier than June 29, 2010, the deadline for the opposing party's response shall be in accordance with the Local Rules.

(Willfulness Disclosures)	claim construction ruling	
---------------------------	---------------------------------	--

2. Defendants agree to the newly proposed schedule, but anticipate that it will be changed again following issuance of the Court's claim construction ruling. The parties will meet and confer at that time with regard to what, if any, changes become necessary.

3. Plaintiff and Defendants therefore respectfully request that the Court enter the attached proposed Order modifying the Docket Control Order as set forth above.

DATED: May 28, 2010

Respectfully submitted,

/s/ Jennifer H. Doan
(by permission, Jennifer P. Ainsworth)

Jennifer Doan
Joshua Reed Thane
HALTOM & DOAN
Crown Executive Center, Suite 100
6500 Summerhill Rd.
Texarkana, Texas 75503
Tel: 903.255.1002
Fax: 903.255.0800
Email: jdoan@haltomdoan.com
Email: jthane@haltomdoan.com

Jason C. White
Mansi Shah
Scott Sherwin
HOWREY LLP
321 N. Clark, Suite 3400
Chicago, IL 60654
Tel: 312.595.1239
Fax: 312.595.2250
Email: whitej@howrey.com
Email: shahm@howrey.com
Email: sherwins@howrey.com

William C. Rooklidge
HOWREY, LLP
4 Park Plaza, Suite 1700
Irvine CA 92614-2559
Telephone: (949) 721-6900
rooklidge@howrey.com

Attorneys for Defendant Yahoo! Inc.

By */s/ Jennifer Parker Ainsworth*

Jennifer Parker Ainsworth
Texas State Bar No. 00784720
jainsworth@wilsonlawfirm.com
WILSON, ROBERTSON & CORNELIUS, P.C.
P.O. Box 7339
Tyler, Texas 75711
Telephone: (903) 509-5000
Facsimile: (903) 509-5092

Charles K. Verhoeven, *pro hac vice*
charlesverhoeven@quinnemanuel.com
David A. Perlson, *pro hac vice*
davidperlson@quinnemanuel.com
Antonio Sistos, *pro hac vice*
antoniosistos@quinnemanuel.com
Eugene Novikov, *pro hac vice*
eugenenovikov@quinnemanuel.com
QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP
50 California Street, 22nd Floor
San Francisco, California 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Andrea P. Roberts, *pro hac vice*
andreaproberts@quinnemanuel.com
Brian C. Cannon, *pro hac vice*
briancannon@quinnemanuel.com
QUINN EMANUEL URQUHART OLIVER & HEDGES
555 Twin Dolphin Drive, Suite 560
Redwood Shores, CA 94065
Telephone: 650-801-5000
Facsimile: 650-801-5100

COUNSEL FOR DEFENDANT GOOGLE INC.

DATED: May 28, 2010

Respectfully submitted,

By */s/ Andrew W. Spangler*
(by permission, Jennifer P. Ainsworth)

David M. Pridham
LAW OFFICE OF DAVID PRIDHAM
25 Linden Road
Barrington, Rhode Island 02806
(401) 633-7247
(401) 633-7247 (fax)
david@pridhamiplaw.com

Andrew W. Spangler
LEAD COUNSEL
SPANGLER LAW P.C.
208 N. Green Street, Suite 300
Longview, Texas 75601
(903) 753-9300
(903) 553-0403 (fax)
spangler@spanglerlawpc.com

John M. Bustamante
Texas Bar No. 24040618
BUSTAMANTE, P.C.
54 Rainey Street, No. 721
Austin, Texas 78701
Tel. 512.940.3753
Fax. 512.551.3773
Email: jmb@BustamanteLegal.com

Marc A. Fenster
CA Bar No. 181067
mfenster@raklaw.com
Alexander C. Giza
CA Bar No. 212327
agiza@raklaw.com

Elizabeth A. Wiley
Texas State Bar No. 00788666
THE WILEY FIRM PC
P.O. Box 303280
Austin, Texas 78703-3280
Telephone: (512) 560.3480
Facsimile: (512) 551.0028
Email: lizwiley@wileyfirmpc.com

Andrew Weiss
CA Bar No. 232974
aweiss@raklaw.com
Adam Hoffman
CA Bar No. 218740
ahoffman@raklaw.com
RUSS, AUGUST & KABAT
12424 Wilshire Blvd., 12th Floor
Los Angeles, CA 90025
(310) 826-7474
(310) 826-6991 (fax)

Patrick R. Anderson
PATRICK R. ANDERSON PLLC
4225 Miller Rd, Bldg. B-9, Suite 358
Flint, MI 48507
(810) 275-0751
(248) 928-9239 (fax)
patrick@prapllc.com

COUNSEL FOR PLAINTIFF BRIGHT
RESPONSE, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on this the 28th day of May, 2010.

/s/ Jennifer Parker Ainsworth

Jennifer Parker Ainsworth