

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

|                       |   |                                 |
|-----------------------|---|---------------------------------|
| BRIGHT RESPONSE, LLC, | § |                                 |
| Plaintiff,            | § |                                 |
|                       | § |                                 |
| v.                    | § | Civil Action No. 2:07-cv-371-ce |
|                       | § |                                 |
| GOOGLE INC., et al.,  | § |                                 |
|                       | § | JURY TRIAL DEMANDED             |
| Defendants.           | § |                                 |
|                       | § |                                 |

**BRIGHT RESPONSE, LLC'S RESPONSE TO YAHOO MOTION IN LIMINE NO. 5  
(LIMIT EXPERT TESTIMONY TO REPORTS)**

Plaintiff Bright Response, LLC (“Bright Response”) files this response to Yahoo Motion in Limine No. 5 (Dkt. No. 476) concerning its request to preclude expert testimony at trial that is beyond the scope of expert reports.

Bright Response filed its motions in limine 3-33 (Dkt. No. 453), requesting this same limitation. Bright Response requested as its motion in limine no. 7 that the Court preclude the following:

7. Any references or testimony related to information or opinions not included in an expert reports exchanged among the parties is not the proper subject of testimony at trial by Defendants’ experts. Fed. R. Civ. P. 26. Such references have no relevance to any claim or defense in this lawsuit because the report controls and the expert may not vary or expand testimony beyond the report. Fed. R. Evid. 402. Any probative value that the other matters arguably may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or the risk of misleading the jury in terms of the proper boundaries of the expert’s testimony. Fed. R. Evid. 403.

Dkt. No. 453 at 3.

Insofar as Yahoo’s motion in limine number 5 requests the same relief as Bright Response’s motion in limine no. 7, Bright Response concurs in that request, and Bright Response agrees that such a limitation should be binding on all parties and their expert witnesses. .

Dated: July 26, 2010

Respectfully submitted,

By: /s/ Elizabeth A. Wiley  
Elizabeth A. Wiley

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**CERTIFICATE OF SERVICE**

I certify that counsel of record who are deemed to have consented to electronic service are being served this 26th day of July, 2010, with a copy of this document via the Court's CM/ECF systems per Local Rule CV-5(a)(3). Any other counsel will be served electronic mail, facsimile, overnight delivery and/or First Class Mail on this date.

\s\ Elizabeth A. Wiley  
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