

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 EMERGENCY MOTION FOR EXTENSION OF TIME
TO RESPOND TO YAHOO MOTION TO EXCLUDE (DKT. NO. 485)**

Plaintiff Bright Response, LLC (“Bright Response”) files this Motion seeking a short extension of time to respond to Dkt. No. 485: Yahoo!’s Motion to Exclude the Testimony of Plaintiff’s Damages Expert Stephen Becker. In support, Plaintiff states as follows:

1. On Monday January 26, 2010, numerous briefs were due and filed in this case, including responses to motions in limine and *Daubert* Motions.
2. Because many documents were filed under seal, service of those filed documents was by email. One such motion (Docket No. 505), what we now understand to be Google’s *Daubert* motion re plaintiff’s damages expert, was styled “Defendants’ Motion To Exclude Certain Opinions Of Plaintiff’s Damages Expert Stephen L. Becker.” Based on this title, plaintiff’s counsel perceived this motion to be a joint motion. (See attached cover page of Google’s motion).
3. That perception was a mistaken one, however, and based on this misunderstanding, plaintiff’s counsel inadvertently overlooked Yahoo’s separately filed motion – Dkt. No. 485 – on similar yet different damages issues. Only upon going into ECF to file the response to Google’s motion did plaintiff see that Docket Number 505 had been filed as “Google’s Motion” rather

than “Defendants’ Motion,” and plaintiff then looked for, and saw for the first time, Yahoo’s motion.

4. By an informal agreement of the parties, responses to these motions were due at midnight on January 28, 2010.

5. Bright Response seeks a short extension of time, to at least 5:00 pm, January 29, 2010, to address the distinct issues in Yahoo’s motion. These issues involve detailed issues of law, and moreover the relief requested by Yahoo (essentially gutting Bright Response’s damages case) makes their motion an important one, requiring plaintiff to request the length of extension requested here.

6. Due to the time of day at which Bright Response files this Motion – at approximately 3:00 a.m. -- Bright Response has provided a copy of this motion to Yahoo’s local counsel, and requested to meet and confer, but does not expect to receive a response until the morning. Once the parties have met and conferred, Bright Response will inform the Court whether this motion is opposed.

7. Bright Response therefore requests a short extension, commensurate with the short deadlines for all such filings in these two weeks preceding trial, to file a response.

Dated: July 29, 2010

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

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

John C. Hueston
CA SBN 164921
IRELL & MANELLA, LLP
840 Newport Center Dr., Suite 400
Newport Beach, CA 92660
Tel: (949) 760-0991
Fax: (949) 760-5200
Email: jhueston@irell.com

Adam S. Goldberg
CA SBN 250172
IRELL & MANELLA, LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel: (310) 203-7535
Fax: (310) 203-7199
Email: agoldberg@irell.com

Respectfully submitted,

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

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

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

CERTIFICATE OF CONFERENCE

I hereby certify as follows that given the hour of the day, the undersigned has not met and conferred with opposing counsel for Yahoo. Counsel has nevertheless sent by email correspondence an inquiry to the effect to local counsel for Yahoo, Jennifer Doan, along with this motion, and will inform the Court of the status as early as possible during business hours on Thursday July 29, 2010.

\s\ Elizabeth A. Wiley
Elizabeth A. Wiley

CERTIFICATE OF SERVICE

I certify that counsel of record who are deemed to have consented to electronic service are being served this 29th 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
Elizabeth A. Wiley