

EXHIBIT A

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

BRIGHT RESPONSE, LLC)(
)(CIVIL DOCKET NO.
)(2:07-CV-371-CE
VS.)(MARSHALL, TEXAS
)(
)(JULY 28, 2010
GOOGLE, INC., ET AL.)(1:30 P.M.

PRE-TRIAL HEARING
BEFORE THE HONORABLE JUDGE CHAD EVERINGHAM
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF: (See attached sign-in sheet.)

FOR THE DEFENDANTS: (See attached sign-in sheet.)

COURT REPORTER: MS. SHELLY HOLMES, CSR
 Deputy Official Court Reporter
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(Proceedings recorded by mechanical stenography,
transcript produced on a CAT system.)

1 jury. Are the defendants aligned for purposes of voir
2 dire and making strikes?

3 MS. DOAN: I believe so, Your Honor.

4 THE COURT: Okay. I'm going to give you
5 four strikes a side, then, and y'all can collaborate,
6 then, on your strikes from the defense's side.

7 I'm going to conduct an evidentiary hearing
8 to pre-admit exhibits and resolve, to the extent I can,
9 your deposition objections after the jury is seated on
10 Monday. We'll -- that hearing will -- I hope to get
11 started about 11:30, and we'll work as much as we can,
12 and I'll give you a short recess for lunch, and I'd like
13 to start opening statements Monday afternoon about 3:00
14 o'clock. If I do preliminary instructions and opening
15 statements, maybe get a little bit of testimony Monday
16 afternoon, we'll be on -- on track.

17 How much time do you need to present your
18 case?

19 MR. FENSTER: Your Honor, we estimate 13
20 hours per side.

21 THE COURT: What about from --

22 MS. DOAN: Your Honor, we're requesting 20
23 hours a side.

24 THE COURT: Okay. What -- what do you think
25 the key issues are for infringement?

1 other side from turning his name over to them.

2 MR. SPANGLER: Your Honor, all I would say,
3 my final thing, and then I will sit down, is, you know,
4 you look at the course of this litigation and what has
5 happened, the inadvertent mistake versus what's
6 happened, we just -- we would like to have an
7 opportunity to respond to any proposed sanction that
8 they're going to offer.

9 THE COURT: Mr. Spangler, I'm not talking
10 about a sanction for the intentional violation of -- of
11 the discovery rule. I've made that clear.

12 What I'm asking for is if they have some
13 relief in mind to cure any prejudice they suffered, I'm
14 inviting them to tell me what that is. The only relief
15 that I know of to -- to cure it would be some type of a
16 continuance of the trial, but nobody's asking me for
17 that. The only -- it's like I've been presented with a
18 binary choice that I'm not allowed to pick one of them
19 because the only alternative sanction that was proposed
20 was the death penalty sanction against y'all, and I've
21 made it plain that I'm not going to do that.

22 MR. SPANGLER: Thank you, Your Honor.

23 MR. PERLMAN: Your Honor, I've had a few
24 notes passed up to me, but I think what might make the
25 most sense is for us to collect together and think what

1 makes the most sense and maybe we can present it to you
2 on Monday if that's acceptable.

3 THE COURT: Well, that's -- that's fine,
4 but, I mean, you need to know where I'm coming from is
5 I'm -- you know, if you're talking about some
6 instructions to the jury, some punitive sanctions, don't
7 even bother bringing them to me, okay? What I'm
8 interested in is if you have any way that I can cure any
9 prejudice that you've suffered, you know, and I'm
10 willing to listen to you.

11 MR. PERLMAN: That's what's going to be our
12 goal to figure out.

13 THE COURT: All right. Have you resolved
14 the motion to have Mr. Pridham be assisting with the
15 damages expert yet?

16 MR. SPANGLER: We have not, Your Honor.

17 THE COURT: All right. Why shouldn't he be
18 entitled to assist with the damages presentation in the
19 case?

20 MS. DOAN: Your Honor, as you know, we moved
21 for this back in March of this year, and Your Honor
22 granted this June 2nd, I believe, with respect to the
23 protective order.

24 The damages documents are highly
25 confidential documents, Your Honor, that have all been