

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PERFORMANCE PRICING, INC.,

Plaintiff,

v.

GOOGLE INC. and AOL LLC,

Defendants.

Civil Action No. 2-07CV-432-LED
(Eastern District of Texas)

JURY TRIAL DEMANDED

AGREED MOTION TO AMEND MEDIATION ORDER

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff Performance Pricing, Inc. and Defendants Google Inc. and AOL LLC file this joint motion and respectfully ask the Court to amend the mediation order (Dkt. 102) entered in this matter. Pursuant to the Mediation Order, the parties are required to complete their second round of mediation by December 18, 2009. The parties engaged in a first round of mediation on August 13, 2009. The mediation did not lead to settlement between the parties. The parties do not believe that additional mediation would be beneficial at this stage. Moreover, the parties believe that additional mediation at this stage would lead to unnecessary expense and inefficient use of the parties' resources and the mediator's resources. Therefore, the parties respectfully request that the Court amend its order and withdraw the requirement for a second round of mediation.

In the alternative, the parties request that the deadline for the second round of mediation be extended until after the Court has ruled on the parties' outstanding summary judgment

motions. If the Court feels that a second round of mediation is necessary, the parties believe such mediation would be more productive after the Court has ruled on these motions.

WHEREFORE, Plaintiff and Defendants respectfully request that the Court amend the Mediation Order as outlined above.

DATED: December 11, 2009

/s/ Emily C. O'Brien

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on December 11, 2009.

/s/ Emily C. O'Brien
