

EXHIBIT A

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

FUNCTION MEDIA, L.L.C.,)(
)(CIVIL DOCKET NO.
)(2:07-CV-279-CE
VS.)(MARSHALL, TEXAS
)(
GOOGLE, INC., AND)(JANUARY 12, 2010
YAHOO, INC.)(1:30 P.M.

MOTIONS HEARING

BEFORE THE HONORABLE JUDGE CHAD EVERINGHAM
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFFS: (See Attorney Sign-In Sheet)

FOR THE DEFENDANTS: (See Attorney Sign-In Sheet)

COURT REPORTER: MS. SHELLY HOLMES, CSR
Deputy Official Court Reporter
2593 Myrtle Road
Diana, Texas 75640
(903) 663-5082

(Proceedings recorded by mechanical stenography,
transcript produced on a CAT system.)

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1 COURT SECURITY OFFICER: All rise.

2 THE COURT: Please be seated.

3 I've got a motions hearing set in Function
4 Media versus Google. It's 2:07-CV-279.

5 What says the plaintiff?

6 MR. TRIBBLE: Your Honor -- Your Honor, good
7 afternoon, Max Tribble for the plaintiff. Plaintiff is
8 ready.

9 THE COURT: For the defendant?

10 MR. GILLAM: Gil Gillam, Charlie Verhoeven,
11 and Amy Candido for Google. We're ready.

12 THE COURT: All right. Several matters to
13 take up today. The first one is the motion to seal and
14 close the courtroom. Tell me -- the way this is
15 ordinarily handled is that if there's some portion that
16 comes up during the trial of the case that is -- you
17 feel is necessary to close the courtroom, bring it to my
18 attention, I'll do it. I'll give you a certain amount
19 of time to, you know, identify those portions of the
20 record that need to be maintained under seal once --
21 once you get your copies of the record, as well as
22 whatever exhibits. I'll have the clerk, you know, hold
23 the exhibits and not release the exhibits to the public
24 for a certain after the trial, but what's the matter
25 with that procedure?

1 MR. VERHOEVEN: That procedure is perfect,
2 Your Honor. That's all we -- that's all we seek, and I
3 will point out that the parties have agreed for direct
4 examination purposes to provide each other with a notice
5 the day before of the exhibits that they intend to use.
6 And we -- hopefully we can meet and confer that evening,
7 next morning and -- and if there is an issue, present it
8 to you with the most efficient and nondestructive manner
9 possible.

10 THE COURT: I mean, I've -- I've read the
11 papers. My -- my concern is that -- my real concern is
12 that my experience with this procedure has resulted in
13 very limited periods of time that the courtroom has been
14 closed because the courtroom is presumptively open. And
15 what I don't want to have happen is every third
16 question, we have an interrupt the flow of the
17 proceedings and --

18 MR. VERHOEVEN: I hear you, Your Honor. We
19 have no intent to do that, and we're perfectly happy
20 with the procedures you've outlined and, you know, we
21 filed -- we filed our motion, just by way of
22 explanation, Your Honor, a few months -- a couple of
23 months ago, I think. Hadn't exchanged exhibit lists.
24 We just wanted to make sure that we had on the record
25 this is a concern of ours. As long as we can work

1 agreement says no exchange of exhibits for any witness
2 or demonstratives for cross witnesses.

3 THE COURT: Well...

4 MR. VERHOEVEN: I'm going to have to read
5 this, Your Honor. I -- there may be a mistake. I
6 thought we had reached agreement on that, but I think
7 that's sort of a side issue --

8 THE COURT: Well --

9 MR. VERHOEVEN: Don't need to take Your
10 Honor's time on that. If we need to, we can address the
11 efficient handling of exhibits -- hopefully the parties
12 can work out an arrangement there. But what Your Honor
13 has suggested in terms of handling what we believe to be
14 trade secret information -- to protect Google's trade
15 secret information, we would suggest would work.

16 THE COURT: Well, that's -- that's the
17 procedure I'm going to adopt. And if it for some reason
18 becomes unworkable during the course of the trial for
19 whatever reason, lack of agreement as to how to
20 implement it or whatever, I'll deal with that during the
21 course of the trial.

22 So I guess for the purposes of the record,
23 the motion is granted in part and denied in part to the
24 extent I've just outlined.

25 Next issue that I've got on my plate is

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct transcript from the stenographic notes of the proceedings in the above-entitled matter to the best of my ability.

SHELLY HOLMES
Deputy Official Reporter
State of Texas No.: 7804
Expiration Date: 12/31/10

Date