

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

PAID SEARCH ENGINE TOOLS, LLC,	§	
	§	
Plaintiff,	§	C.A. 2:08-cv-061 (DF/CE)
vs.	§	
	§	
GOOGLE, INC. and	§	Jury Demanded.
MICROSOFT CORPORATION,	§	
	§	
Defendants.	§	

JOINT CONFERENCE REPORT

- (1) This is an action for alleged infringement of United States Patent No. 7,043,450 issued May 9, 2006 and entitled "Paid Search Engine Bid Management." The patent abstract describes the patent being directed to a method and system (information processing system) for overcoming deficiencies and inefficiencies in the paid search engine keyword bidding market by providing keyword bidders with information they need to better optimize their use of paid search engines. The defendants deny infringement and have asserted a number of defenses including invalidity and inequitable conduct. Plaintiff served its P.R. 3-1 preliminary infringement contentions and its P.R. 3-2 disclosures and documents on October 17, 2008.
- (2) Pursuant to the Court's Order dated September 25, 2008, counsel for the parties met by telephone on October 13, 2008. The parties were represented as follows:

Paid Search Engine Tools, LLC:

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- (3) The patent in suit is also being asserted against Yahoo! Inc. in Case No. 2:07-cv-403 (TJW) filed September 13, 2007.
- (4) The expected length of trial is two weeks.
- (5) The parties do not agree to trial before a magistrate judge.
- (6) A jury demand has been made.
- (7) A Proposed Docket Control Order is attached as Exhibit A.
- (8) The parties in this matter have agreed that this case should be consolidated with C.A. 2:07-cv-403 (TJW); *Paid Search Engine Tools, LLC v. Yahoo! Inc.*; In the United States District Court for the Eastern District of Texas, Marshall Division. The cases involve the same Plaintiff and the same patent. The Yahoo! case is pending before Judge Ward and we understand that Judge Ward recuses himself from cases where Microsoft is a party thereby preventing transfer of this case to Judge Ward. The parties thus propose to consolidate the Yahoo! case with this case and follow the schedule adopted by Judge Folsom for this case. If, for any reason, the Yahoo! case is not consolidated with this case, the parties agree that the Final Pretrial and Trial in this case should be in March 2011 as opposed to October 2010, but only if all other dates on the attached schedule remain as set forth in the attached. Counsel for Plaintiff has called counsel for Yahoo! to propose this consolidation, but does not yet know if Yahoo! agrees to this proposal.

- (9) Proposed modifications of the limits on discovery set forth in the September 25, 2008 Order is attached as Exhibit B.
- (10) The parties propose to jointly submit a proposed Protective Order to the Court.
- (11) The parties do not believe that the appointment of a Technical Advisor or Special Master is needed.
- (12) Nine claims are asserted against Google. Eight claims are asserted against Microsoft.
- (13) The parties do not believe that early mediation will be fruitful. The parties wish to revisit mediation after at least some discovery has taken place.
- (14) Counsel are cognizant of the Local Rules pertaining to attorney misconduct.

Dated: October 24, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served this 24th day of October, 2008, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux
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