

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

**FPX, LLC, (d.b.a. FIREPOND),
Individually and on Behalf of All Others
Similarly Situated,**

Civil Action No. 2:09-cv-00142

Plaintiff,

v.

(1) GOOGLE, INC.;
(2) YOUTUBE, LLC;
(3) AOL, LLC;
**(4) TURNER BROADCASTING
SYSTEM, INC.;**
(5) MYSPACE, INC., and
(6) IAC/INTERACTIVECORP

Defendants.

UNOPPOSED MOTION FOR LEAVE TO FILE ADDITIONAL DOCUMENTS

In accordance with the Court's suggestions at the hearing on Plaintiff's motion for class certification, held December 1, 2010 (the minutes of which are at Docket No. 106), Plaintiff FPX, LLC ("Plaintiff") hereby seeks leave to submit the following document additional evidence in support of its motion for class certification:

1. Trademark Registration Certificate for "Firepond" mark (Meyer Decl. Exhibit A);
2. Trademark Registration Certificate for "John Beck's" mark (Meyer Decl. Exhibit B);
3. Evidence of Google's sale of the "John Beck's" mark (Meyer Decl. Exhibit C)
4. Assignment of Firepond mark to Plaintiff FPX, LLC (Meyer Decl. Exhibit D);

5. Supplemental declaration of Scott M. Kline regarding the qualifications of himself and his new firm, SNR Denton

This motion is being made because justice requires providing the Court with all evidence it requires to decide the motion for class certification, and because good cause exists to supplement the record as proposed above. Defendants do not oppose supplementing the record in this manner.

Good cause exists to submit these exhibits because (1) their content and existence has never been in dispute and are not reasonable subject to dispute; (2) their content was discussed at the hearing subject to their being subsequently admitted; (3) admission would eliminate technicalities and allow the Court to address class certification on the merits; and, (4) the Defendants do not oppose. However, Defendants have expressly retained the right to object to any newly filed evidence.

Because the hearing in this case and in the related case, *John Beck Amazing Profits, LLC v. Google*, 09-CV-151 was consolidated, the aforementioned exhibits are being submitted only once, by this motion. Should the Court so request, the Plaintiffs in the *Beck* case are prepared to re-submit the same exhibits (and an analogous Kline declaration) separately in that case.

Plaintiff respectfully requests that its motion to supplement the record be granted.
Dated: December 7, 2010

Respectfully submitted,

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**Attorneys for Plaintiff
FPX, LLC**

CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served on December 7, 2010 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.

Dated: December 7, 2010

/s/ Nathan D. Meyer
Nathan D. Meyer

CERTIFICATE OF CONFERENCE

The undersigned counsel for Plaintiff in the above captioned and numbered cause, states that counsel has complied with the meet and confer requirement in Local Rule CV-7(h) and the foregoing motion is unopposed.

Dated: December 7, 2010

/s/ Nathan D. Meyer
Nathan D. Meyer