

**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.

AGREED MOTION TO MODIFY DOCKET CONTROL ORDER

Plaintiff FPX, LLC, and Defendants Google Inc., YouTube, LLC, AOL Inc., Turner Broadcasting System, Inc., MySpace, Inc., and IAC/Interactivecorp (collectively “Movants”) file this Agreed Motion to Modify the Court’s Docket Control Order entered in this case on November 6, 2009, and respectfully show as follows:

1. The current order is silent on the briefing schedule on Defendants’ Daubert Motion, filed September 17, 2010, and the parties desire the following schedule:

- Plaintiff’s Opposition: October 14, 2010
- Defendants’ Reply: October 25, 2010
- Plaintiff’s Sur-reply: November 4, 2010

2. The parties also request that Defendants be permitted twenty (20) pages for their brief in response to Plaintiff's Opposed Motion for Class Certification in this matter.

PRAYER

WHEREFORE PREMISES CONSIDERED, Plaintiff FPX, LLC and Defendants Google Inc., YouTube, LLC, AOL Inc., Turner Broadcasting System, Inc., MySpace, Inc., and IAC/Interactivecorp request that the Court grant their Agreed Motion to Modify the Court's Docket Control Order and grant them any other relief to which they are entitled.

Dated: October 6, 2010

Respectfully submitted,

By: /s/Marc A. Fenster
Marc A. Fenster, CA SB # 181067
E-mail: mfenster@raklaw.com
RUSS, AUGUST & KABAT
12424 Wilshire Boulevard 12th Floor
Los Angeles, California 90025
Telephone: 310/826-7474
Facsimile: 310/826-6991

Scott M. Kline TX SB # 11573100 LEAD
E-mail: scottkline@andrewskurth.com
ANDREWS KURTH LLP
1711 Main Street, Suite 3700
Dallas, Texas 75201
Telephone: 214/659-4400
Facsimile: 214/659-4401

David P. Whittlesey
Email: dwhittlesey@akllp.com
Ronald C. Low
Email: caseylow@andrewskurth.com
ANDREWS KURTH LLP - Austin
111 Congress Ave, Suite 1700
Austin, Texas 78701
Telephone: 512/320-9213
Facsimile: 512/320-9292

David M. Pridham, RI Bar No. 6625
E-mail: david@pridhamiplaw.com
LAW OFFICE OF DAVID PRIDHAM

25 Linden Road
Barrington, Rhode Island 02806
Telephone: 401/633-7247
Facsimile: 401/633-7247

Andrew W. Spangler, TX SB # 24041960
E-mail: spangler@spanglerlawpc.com
SPANGLER LAW P.C.
208 N. Green Street, Suite 300
Longview, Texas 75601
Telephone: 903/753-9300
Facsimile: 903/553-0403

**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 October 6, 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: October 6, 2010

/s/ Marc A. Fenster
Marc A. Fenster

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 agreed.

Dated: October 6, 2010

/s/ Marc A. Fenster
Marc A. Fenster