

**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,**

**Plaintiff,**

v.

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

**Defendants.**

**Civil Action No. 2:09-cv-00142  
CLASS ACTION COMPLAINT**

**JURY TRIAL REQUESTED**

**DECLARATION OF NATHAN D. MEYER IN OPPOSITION TO MOTION TO  
EXCLUDE DR. THOMAS MARONICK**

I, Nathan D. Meyer, declare and state as follows:

1. I am a member of the State Bar of California and an attorney at the law firm of Russ, August & Kabat, one of the counsel for Plaintiff FPX, LLC in the above-captioned action. I have personal knowledge of the facts set forth herein, and if called upon to testify, could and would testify competently thereto.

2. Attached hereto as Exhibit "A" and incorporated herein by reference are true and correct copies of excerpts from the deposition of Dr. Itamar Simonson.

3. Attached hereto as Exhibit "B" and incorporated herein by reference are true and correct copies of excerpts from the deposition of Dr. Thomas Maronick.

4. For several months, beginning in April 2010 and as late as September 14, 2010, I conducted regular Google searches for “Southwest.” Every search I conducted showed sponsored links not affiliated with Southwest Airlines, and nearly all included a link for “smartfares.com/southwest.”

5. I conducted numerous Google searches for “Southwest” between October 1, 2010 and October 14, 2010, at both my own computer and other computers. These searches showed only a single sponsored link, for the Southwest Airlines official site.

I declare, under penalty of perjury that the foregoing is true and correct to the best of my knowledge. This Declaration is executed on October 14, 2010 at Los Angeles, California.

Dated: October 14, 2010

/s/ Nathan D. Meyer  
Nathan D. Meyer

**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 14, 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 14, 2010

/s/ Nathan D. Meyer  
Nathan D. Meyer