

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.

GOOGLE, INC., YOUTUBE, LLC, AOL,
LLC, TURNER BROADCASTING
SYSTEM, INC., MYSPACE, INC. AND
IAC/INTERACTIVECORP,

Defendants.

Civil Action No. 2:09-cv-00142-TJW

CLASS ACTION COMPLAINT

JURY TRIAL REQUESTED

THE RODNEY A. HAMILTON LIVING
TRUST and JOHN BECK AMAZING
PROFITS, LLC, Individually and on Behalf
of All Others Similarly Situated,

Plaintiffs,

v.

(1) GOOGLE, INC.; AND
(2) AOL, LLC

Defendants.

Civil Action No. 2:09-cv-00151-TJW-CE

CLASS ACTION COMPLAINT

JURY TRIAL REQUESTED

DOCKET CONTROL ORDER

1. Deadline for the Parties to submit initial disclosures pursuant to the Local and Federal Rules: **November 25, 2009.**
2. Twenty (20) days after service of responses to requests for production and disclosures, the parties will produce and serve a privilege log containing only disputed items.
3. Plaintiffs as a group are permitted to take a total of 100 hours of oral depositions, including one expert deposition. In the event Defendants designate more than one expert witness, Plaintiffs shall be entitled to depose such expert(s), and such additional expert deposition(s) will be subject to the limits established by the Federal Rules of Civil Procedure, and will not count towards the 100 hour limit. Plaintiffs as a group are limited to no more than 35 requests for production, 35 requests for interrogatories and 35

requests for admission, including discrete sub-parts, to each Defendant. Plaintiffs will be allowed unlimited requests for admission insofar as such requests are limited solely to the authenticity of documents.

4. Defendants as a group are permitted to take a total of 100 hours of oral depositions, including one expert deposition. In the event Plaintiffs designate more than one expert witness, Defendants shall be entitled to depose such expert(s), and such additional expert deposition(s) will be subject to the limits established by the Federal Rules of Civil Procedure, and will not count towards the 100 hour limit. Defendants as a group are limited to no more than 35 requests for production, 35 requests for interrogatories and 35 requests for admission, including discrete sub-parts, to each Plaintiff. Defendants will be allowed unlimited requests for admission insofar as such requests are limited solely to the authenticity of documents.
5. Deadline for Plaintiffs to designate any expert witness(es) and file a report for any such witness upon whom Plaintiffs intend to rely in support of their Motions for Class Certification: **April 30, 2010.**
6. Deadline for Defendants to designate any such expert witness(es) and file a report for any such witness upon whom Defendants intend to rely in opposition to Plaintiffs' Motions for Class Certification: **June 4, 2010.**
7. Deadline to complete class discovery: **July 30, 2010.**
8. Deadline to file a *Daubert/Kumho* challenge to any expert witness designated above: **August 17, 2010.**
9. Deadline for Plaintiffs to file Motions for Class Certification: **August 17, 2010.**
10. Deadline for Defendants to file oppositions to Plaintiffs' Motions for Class Certification: **September 17, 2010.**
11. Deadline for Plaintiffs to file Replies to Defendants' Oppositions to Plaintiffs' Motions for Class Certification: **October 1, 2010.**
12. Deadline for Defendants to file Sur-Replies on Plaintiffs' Replies to Defendants' Oppositions to Plaintiffs' Motions for Class Certification: **October 15, 2010.**
13. Deadline to designate witnesses, exhibits and deposition designations by page and line for class certification hearing: 14 days prior to class certification hearing. Counter designations due: 7 days prior to class certification hearing.
14. Hearing on Plaintiff's Motion for Class Certification in *FPX, LLC v. Google Inc. et al.*, Civil Action No. 2:09-cv-00142: 9:30 a.m. on October 26, 2010.
15. Hearing on Plaintiff's Motion for Class Certification in *John Beck Amazing Profits, LLC v. Google Inc. et al.*, Civil Action No. 2:09-cv-00151: 1:30 p.m. on October 26, 2010.

16. Until the Court rules on Plaintiffs' motions for class certification, discovery shall be limited to those issues of fact and law necessary for the Court to determine whether or not this case should be maintained as a class action; in so limiting discovery, the Court is mindful that the parties must conduct some limited amount of discovery into the merits of the claim to adequately present their position on the feasibility and propriety of certification; it is not the Court's intent to foreclose any and all discovery into the merits of Plaintiffs' claims and the Defendants' defenses.
17. The Court will address the need for further deadlines related to additional discovery on the merits, dispositive motions, jury selection and trial at a later time after the Court determines whether this action may proceed as a class action or as an individual action.

It is so ORDERED.

SIGNED this 6th day of November, 2009.



CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE