

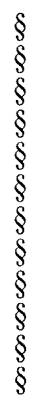
CTJ/RMT
ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,
Plaintiff,

V.

YAHOO! INC., and
OVERTURE SERVICES, INC. d/b/a YAHOO!
SEARCH MARKETING,
Defendants.



Civil Action No. 4-08-CV-626-A

**APPENDIX IN SUPPORT OF DEFENDANTS' MOTION TO
EXCLUDE TESTIMONY OF BASIL ENGLIS**

EXHIBIT	DOCUMENT	PAGE
A	Expert Witness Report of Basil G. Englis, Ph.D., dated August 14, 2009	004
B	Plaintiff American Airlines, Inc.'s Objections and Responses to Yahoo's First Set of Requests for Admission, dated October 5, 2009	031
C	Plaintiff production document AAY-000015298 to AAY-000015302	037
D	Plaintiff production document AAG-00128141 to AAG-00128143	042
E	Critique of E. Deborah Jay, Ph.D. Report and Survey Conducted by Field Research, Inc., by Basil G. Englis, Ph.D., dated April 27, 2005, from <i>AARP v. Kramer Lead Marking Group et al.</i> , Case No. 3:03CV1033-J-99 MCR (U.S.D.C. M.D. Fla)	045
F	Stimuli 1 document Q3_1	048

EXHIBIT	DOCUMENT	PAGE
G	Test 1, Qn 1 (Q3_1) Verbatim	050
H	Test 1, Qn 2 (Q4_3) Verbatim	051
I	Test 2, Qn 1 (Q3_18)	052
J	Data Memo from Senior Research Fellow Debora Fallows re Search Engine Use, Dated August 6, 2008	053

CERTIFICATE OF SERVICE

The undersigned attorney certifies that a true copy of the foregoing document has been served on counsel of record as follows:

Dee J. Kelly
Dee J. Kelly, Jr.
Lars L. Berg
Kelly Hart & Hallman, LLP
201 Main Street, Suite 2500
Fort Worth, TX 76102

Via Hand Delivery

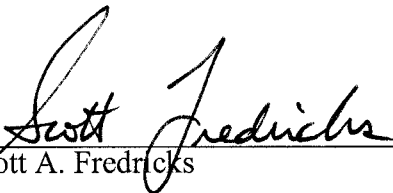
Frederick Brown
Jason Stavers
Gibson, Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105

Via FedEx

Howard S. Hogan
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036

Via FedEx

Date: November 6, 2009



Scott A. Fredricks

A

American Airlines, Inc. v Yahoo, Inc.
(Civil Action No. 4-08CV-626-A)

EXPERT WITNESS REPORT

Respectfully submitted by:

Basil G. Englis, Ph.D.
Richard Edgerton Professor of Marketing,
Campbell School of Business, Berry College
Managing Director, Mind/Share, Inc.

August 14, 2009

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of "net" confusion was computed for each test condition by subtracting the confusion measured in the control condition from the confusion measured in each test condition.

11. Based on the findings of these two tests I conclude that a significant number of consumers in the relevant population are likely to be confused when conducting a search for American Airlines and being presented with a search results page containing "Sponsor Results." These substantial levels of confusion are found whether the text of the Sponsor Results includes an American Airlines trademark or whether it does not. My opinion is based on the following key findings:

In Test 1, net total confusion was 40.0%.

In Test 2, net total confusion was 15.2%.

Based on these findings, it is likely that substantial numbers of consumers are affected.

VII. BACKGROUND

12. It is my understanding that American Airlines is one of the world's largest airlines. American Airlines has registered the trademark: "American Airlines." American Airlines also maintains a number of other trademarks in connection with different products and services it offers to its customers. These trademarks include: "AA.com," AA, AAdvantage and "American Airlines," "AA," and many others (together, the "American Airlines Marks"). It is my understanding that American Airlines launched its website in 1995.¹

13. American Airlines has spent hundreds of millions of dollars in marketing support in order to build the strength of the American Airlines Marks.² American Airlines has and continues to build the fame, reputation and goodwill of the American Airlines Marks using numerous diverse media vehicles including, but not limited to, television, radio, newspaper, direct mail and the Internet.³ American Airlines markets its products and services on the Internet using its own as well as third-party websites and other Internet-based marketing tools.

14. American Airlines offers numerous products and services, including airline transportation services and other travel-related products and services, to consumers via the Internet. Indications are that consumer use of the Internet to learn about and purchase the types of products and services that American Airlines markets via the Internet is substantial,⁴ and that the growth seen in this channel is expected to

¹ American Airlines history: <http://www.aa.com/aa/118nForward.do?p=/amrcorp/corporateInformation/facts/history.jsp>.

² Brand Finance 250 (2007). The annual report on the world's most valuable brands.

³ American Airlines' promotion planning budget for 2009 is one indicator of spending for different channels (AA Y-000619271-AA Y-000619272).

⁴ Horrigan (2008). Online Shopping. Pew Internet & American Life Project.

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continue into the future.⁵ One of the most common mechanisms used by consumers to locate information about travel-related services is Internet-based search engines.⁶

15. An Internet-based search engine uses a computer algorithm to search the World Wide Web for websites that contain content relevant to the term (or terms) entered into the “search window” by the user. The Yahoo search engine is widely and freely available to Internet users. Yahoo is one of the largest Internet search engines,⁷ with 58 million consumers using the search engine daily and 2.8 billion searches being conducted each month.⁸ Search is one of the most common Internet activities, and roughly one-half of all Internet users on any given day engage in online search.⁹

16. To use the Yahoo search engine, a user of the World Wide Web (“web user”) types one or more descriptive words into a search window and then hits a “web search” button. The Yahoo search engine then presents a list of web pages and web “hyperlinks” (“links”), along with brief descriptions of those pages to the web user. These are presented on a search results page. The web user may click on a web link in order to visit one of the web pages presented on the search results page by the search engine.

17. The search results presented by the Yahoo search engine typically arise from two mechanisms: one type of search result is presented on the basis of a relevancy criterion (referred to as an “organic” or “algorithmic” result¹⁰) and a second type of search result is presented by Yahoo largely in consideration of a fee paid to Yahoo for that placement (referred to by Yahoo as a “Sponsor Result”).¹¹ Sponsor Results are links that are presented on the search results page because the sponsoring website has agreed to pay Yahoo for their placement when the web user enters particular search terms into the search window. Each time a Sponsor Result is

⁵ Yahoo (2006). AA/YSM Quarterly Search Review (AAG-TM-00035073). Quinby (2006). Airline Web Sites Continue to Power Online Channel as Airlines Rebound (AAG-TM-00035106-AAG-TM-00035109). ComScore (2006). Continued Growth in Online Travel Sales Revealed; Consumers Slowly Migrating to Supplier Sites to Book Travel. <http://ir.comscore.com/releasedetail.cfm?releaseid=245359> Jones and Fox (2009). Generations Online in 2009. Pew Internet & American Life Project.

⁶ Doubleclick (2005). Search before the Purchase. Fallows (2005). Search Engine Users. Pew Internet & American Life Project. ComScore (2009). Top 10 Gaining Site Categories. <http://www.marketingcharts.com/interactive/top-50-june-websites-facebook-rises-twitter-cracks-list-9883/comscore-top-10-gaining-site-categories-percentage-change-unique-visitors-june-2009jpg/>.

⁷ ComScore (2009). April 2009 U.S. Search Engine Rankings. [www.comscore.com/ Press Events/Press Releases/2009/5/comScore Releases April 2009 U.S. Search Engine Rankings](http://www.comscore.com/PressEvents/Press_Releases/2009/5/comScore_Releases_April_2009_U.S._Search_Engine_Rankings).

⁸ Yahoo Data on Search Engine Usage: <http://sem.smallbusiness.yahoo.com/searchenginemarketing/>.

⁹ Fallows (2008). Search Engine Use. Pew Internet & American Life Project. iCrossing (2005). How America Searches. (AAG-52159- AAG-52174)

¹⁰ These are links that are generated by the operation of a computer algorithm that select search results for display based on their relevance to the search term.

¹¹ A description of “keyword” mechanisms is provided at (“Choosing and Building Keywords): http://help.yahoo.com/l/us/yahoo/ysm/sps/articles/manage_keywords2.html.

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clicked, the sponsoring website pays a fee to Yahoo as payment for the placement of the link on the search results page.

18. As part of its business model, Yahoo offers third parties the option to purchase the use of American Airlines Marks as “keywords” that, when entered into the search window by web users, will cause paid advertisements, or “Sponsor Results,” to appear on the page. These Sponsor Results can appear at the top, top right and/or bottom of the search results page. Yahoo mandates that advertisers include the search keywords in the title line or summary description of Sponsor Results.¹² Thus, the Sponsor Results that Yahoo publishes in response to a search for American Airlines often contain the term “American Airlines” or other American Airlines Marks.

19. In some cases, even when Yahoo’s customers do not purchase the right to use American Airlines Marks as keywords, Yahoo itself causes such advertisements to be published in response to searches for American Airlines Marks through Yahoo’s “Advanced Match” program.¹³ Consumers are not able to determine whether Yahoo has published particular Sponsor Results because Yahoo has sold the right to use such a mark as a keyword trigger or because Yahoo itself caused an advertiser’s Sponsor Result to be published in response to a search for such a mark. Therefore, this report does not attempt to distinguish between levels of consumer confusion caused by Yahoo’s sale of an American Airlines Mark as a keyword trigger or Yahoo’s selection of an American Airlines Mark as an Advanced Match trigger. From the consumer perspective, there is no difference. For the sake of convenience this report uses the term “keyword” to refer to both mechanisms.

20. To the extent that a web user may click on one of the links presented in the Sponsor Results believing that the link will take him/her to an American Airline website or that the link has been endorsed by American Airlines, then the web user has been confused. This confusion could be due to the presence of an American Airlines Mark such as the term “American Airlines” in the Sponsor Results, or to the fact that Yahoo has published the Sponsor Results on the search results page in response to a search for an American Airlines Mark, or to both.

21. Such confusion is likely, as many consumers have only a vague understanding of how search engines generate their results.¹⁴ Consumers typically believe that all of the links presented by a search engine as the result of a single mechanism that in some manner matches the content presented in the search results to

¹² Yahoo’s policy concerning keyword appearance in sponsored results: AAG-301447- AAG-301451; AAY-52710- AAY-52711.

¹³ Yahoo’s Advanced Match Program is described here: http://help.yahoo.com/l/us/yahoo/ysm/sps/articles/manage_keywords4.html#advanced

¹⁴ Marable (2003). False Oracles: Consumer reaction to Learning the Truth about How Search Engines Work. Consumer Reports WebWatch. iCrossing (2005). How America Searches. (AAG-52159- AAG-52174)

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the term that was entered into the search engine.¹⁵ When viewing a search results page many consumers are unable to distinguish between “organic” and “sponsored” results.¹⁶

22. Yahoo typically devotes a large amount of screen space at the top of the search results page to sponsored links, often showing two, three or four links in that portion of the page.¹⁷ According to one research study: “Yahoo has made a conscious decision in their design to feature the top sponsored ads more prominently, allocating 23% of the total screen real estate at standard resolution (1024 X 768). What this means is that the presence of organic results above the fold is significantly diminished. This has a dramatic impact in terms of both visibility and click throughs, as compared to MSN and Google.”¹⁸ Web users pay a significant amount of attention to the top sections of search results pages, and research has shown that as more of this space is allocated to sponsored results, the likelihood of web users clicking on organic links decreases dramatically.¹⁹

23. Web users typically also pay attention to the text that appears in the title link and summary description that is presented as part of a listing on a search results page. The presence of relevant information, such as the search term itself, in the title and/or summary description is an important factor in determining whether or not the web user will click on the link.²⁰

24. By mandating that Sponsor Results include keywords, even when those keywords are registered trademarks, Yahoo artificially creates a sense of relevancy and source authenticity in the information as well as in the positioning of that information on the search results page.²¹ This condition is likely to generate consumer confusion as to the source of the links presented. 80% of consumers, on average, scan only the first few words in the first in the first three or four search results. 70% scan left to right on the first search result shown and that drops to 50% by the third listing.²²

¹⁵ Ibid.

¹⁶ Fallows (2005). Search Engine Users. Pew Internet & American Life Project.

¹⁷ Hotchkiss (2006). Eye Tracking Study II: Google, MSN and Yahoo! Compared. Enquiro Search Solutions.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Jansen and Resnick (2006). An Examination of Searcher's Perceptions of Nonsponsored and Sponsored Links During Ecommerce Web Searching, Journal Of The American Society For Information Science And Technology, 57(14):1949-1961. 360i/Search Ignite (2006). Giving clicks Credit Where They're Due: What You Need to Know When Allocating Your Search Budget. (AAG-REPRISE-00001116- AAG-REPRISE-00001127)

²¹ Yahoo's policy concerning keyword appearance in sponsored results: AAG-301447- AAG-301451; AAY-52710- AAY-52711.

²² Hotchkiss (2006). Eye Tracking Study II: Google, MSN and Yahoo! Compared. Enquiro Search Solutions.

VIII. METHODOLOGY

25. The research design used here followed generally accepted practice in studies of potential trademark confusion (cf. Diamond, McCarthy).²³ In designing such studies, careful attention needs to be paid to the following research design elements:

- definition of the relevant population,
- sampling of the relevant population,
- design of interview questions and procedures,
- selection and design of test and control stimuli to be used in consumer interviews,
- analysis procedures for assessing levels of consumer confusion.

26. The research was conducted using a double-blind procedure such that neither the respondents nor the interviewers were aware of the actual purpose of the study. In addition, “filler” questions were used to indicate to respondents that there were additional potential matters of concern to the researchers than just one particular search engine or one particular airline or one particular product category. As indicated in the field instructions provided to the interviewers (see Exhibit D), interviewers were also told that they were part of just one wave of an ongoing study that focused on other industries (and not just on the airline industry). Similarly, respondents were told “... that different survey participants are being asked to use different search engines to look for different products. Today we are asking participants to use ‘Yahoo’ to search.”

27. The following sections detail the procedures used to define and sample the relevant population, design the interview questions and procedures, design the test and control stimuli and analyze the data concerning consumer confusion.

The Relevant Population

28. The relevant population for the current study is defined as adult consumers in the United States who could potentially use the Yahoo search engine to search for information concerning those products and services offered by American Airlines and who would have or might in the future purchase products or services from American Airlines. The specific criteria used to define the relevant population were as follows:

²³ McCarthy (2004). McCarthy on Trademarks and Unfair Competition 4th Edition, Ch. 32, Sec. X.
Diamond (2000). Reference Guide on Survey Research. In Reference Manual on Scientific Evidence, 2nd Edition.

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- adult²⁴ consumers in the United States who have either used the Yahoo search engine in the past or who might consider doing so in the future, and
- who have either purchased airline tickets online in the past or who might consider doing so in the future, and
- who have previously used American Airlines services in the past or who might consider doing so in the future.²⁵

29. The relevant population is very large. Research conducted by the Pew Internet and American Life project shows that approximately 108,155,401 consumers 18 years or older (47% of the population) in the United States use the Internet to buy or make travel reservations.²⁶ Yahoo posts data on its own website asserting that 53 million people use the Yahoo search engine daily and 2.8 billion searches are conducted each month.²⁷ Internet traffic assessment of visits to the American Airlines website show an average of 2,738,471 people visit the website monthly.²⁸

Sampling the Relevant Population

30. The sampling procedures used in the present study follows standard procedures in research concerning potential consumer trademark confusion.²⁹ Moreover, in the present case consumers needed to be seated in front of a computer screen and shown visual material like that which they would see when using the Yahoo Search engine and then seeing search results. In order to meet these criteria, interviews were conducted in mall interview facilities that were equipped with appropriate computer equipment and that were dispersed across the United States.

31. In its marketing and distribution strategy, American Airlines divides the United States into six regions. These regions are identified as: "Northwest," "Southwest," "North Central," "South Central," "Northeast," and "Southeast." American Airlines also distinguishes the cities it serves within those regions as "hub" and "non-hub," or "spoke," cities.³⁰ There are 8 hub airports in the United States and

²⁴ "Adult" is defined as consumers 18 years of age or older.

²⁵ Rothman (2005). Initial Interest Confusion: Standing at the Crossroads of Trademark Law. *Cardoza Law Review*, 27, 105-191.

²⁶ Horrigan (2008). Online Shopping. Pew Internet & American Life Project. According to the United States Census Bureau there are approximately 230,117,876 adults 18 years of age or older in the U.S. (http://factfinder.census.gov/servlet/QTTTable?_bm=y&-qr_name=PEP_2008_EST_DP1&-geo_id=01000US&-ds_name=PEP_2008_EST&-lang=en&-format=&-CONTEXT=qt).

²⁷ Data from Yahoo website: <http://sem.smallbusiness.yahoo.com/searchenginemarketing/>.

²⁸ Quantcast – American Airlines internet traffic: <http://www.quantcast.com/aa.com/traffic>.

²⁹ McCarthy (2004). McCarthy on Trademarks and Unfair Competition 4th Edition, Ch. 32, Sec. X. Diamond (2000). Reference Guide on Survey Research. In Reference Manual on Scientific Evidence, 2nd Edition.

³⁰ A map of the six regions and the cities served by American Airlines is available at the American Airlines website: <http://www.aa.com/aa/i18nForward.do?p=/aboutUs/whereWeFly/maps/usa.jsp>.

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these eight are located in seven U.S. cities.³¹ Four hub cities were randomly chosen, and four non-hub cities were randomly chosen for the present research. The non-hub cities were chosen from among the 20 non-hub markets having the largest volume of "passengers on board."³²

32. The method used to select the cities used in the sampling was randomization with constraints. The constraints were that mall interview facilities needed to be available for the execution of the mall interviews, all six regions needed to be represented in the final group of cities selected and not more than one hub city could be chosen in each region.

33. The hub cities chosen for sampling and their regions were:

Dallas-Fort Worth (South Central),
Los Angeles (Southwest),
Miami (Southeast),
New York City (Northeast).

The non-hub cities chosen for sampling were:

Atlanta (Southeast),
Minneapolis (North Central),
San Diego (Southwest),
Seattle (Northwest).

34. Because American Airlines has asserted both Federal and Texas causes of action in this case, it was desirable to sample an additional site in Texas. Austin, Texas was among the 20 cities with the largest volume of passengers-on-board (apart from the hub cities) and there were suitable mall interview facilities available for conducting the research. Therefore, Austin was chosen as the ninth city for the purpose of this study.

35. In cities in which more than one mall facility was available multiple sites were used to conduct the interviews provided that the mall facilities were located within a 50 mile radius of the airports selected for the research.

36. In sampling consumers across all nine cities, quotas were established such that an equal number of males and females, and an equal number of respondents 18 to 34 years old, 35-49 years old and 50 years old and older were sampled. Research shows that males are approximately as likely as females to use search engines, buy or make travel reservations online, or to visit an American Airlines

³¹ LaGuardia and JFK airports are both located in New York City.

³² Data were provided by American Airlines for the period of June 2008-May 2009 which showed the number of passengers on board during this period for each "departure station" (airport) serviced by American Airlines in the United States. (AAY-000619569-AAY-000619753)

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website.³³ Similarly, consumers in each of the age groups sampled are approximately as likely to use search engines, buy or make travel reservations online, or to visit an American Airlines website.³⁴

Interview Procedures

37. Interviews were conducted in two parts: first, screener questions were asked that would determine whether or not a prospective respondent was qualified to participate in the research. Second, the main questions of the study were asked only of those prospective respondents who had qualified to participate in the research. Each of these is described in further detail below.

38. Interviews were conducted by trained interviewers in appropriate mall facilities located in the nine cities used in the research.³⁵ Interviewers approached prospective respondents at random in the mall, and interviews were conducted at random times during the weekday and weekend days and evenings that the malls were open to the public.

39. Interviewers were trained by each mall facility supervisor in accordance with the instructions provided (Exhibit D). Each supervisor read all the interview questions aloud to the interviewers and reviewed all skip patterns in the questions.³⁶ Interviewers held practice sessions where staff interviewed each other prior to conducting any actual interviews for the purposes of the research. I personally observed such a practice session in the Gwinnett Place Mall in Atlanta, Georgia. During the course of the study, a colleague and I separately visited four malls in three different cities and observed actual interviews to ensure that procedures were followed appropriately.

40. The study was conducted as an interviewer-administered interview. All of the information collected from respondents was entered into a computer system by the interviewer using a computer-assisted personal interview (CAPI) system. The

³³ Fallows (2008). Search Engine Use. Pew Internet & American Life Project. Horrigan (2008). Online Shopping. Pew Internet & American Life Project.

³⁴ Ibid. Users of search engines skew somewhat younger, while those who buy or make travel reservations online and those who visit an American Airlines website skew somewhat older. (Jones and Fox (2009). Generations Online in 2009. Pew Internet & American Life Project; Horrigan (2008). Online Shopping. Pew Internet & American Life Project. Quantcast - <http://www.quantcast.com/aa.com/traffic#demographics>)

³⁵ The market research firm Quick Test/Heakin Research was retained to field the study and to manage the day-to-day process of data collection. This firm has been in operation for nearly 50 years and conducts over 2,000,000 interviews each year in their nationwide network of mall based research facilities. A separate organization (Discovery National Qualitative Network) was retained to conduct interview validations. Telephone calls were placed to respondents within a few days of their interview. Interviews that did not validate were removed and replaced.

³⁶ A skip pattern occurs when the answer to one question renders it illogical to ask a second question. For example, if a person indicates that they do not require glasses to read a computer screen, it would not make sense to ask that person if they had their glasses or contact lenses with them. In this case the second question (about glasses or contact lenses) would be skipped.

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computer program that administered the interview provided for appropriate error traps such that data would be entered correctly according to the research protocol and such that any information that disqualified a prospective respondent was flagged so that the person could be excused. The CAPI system used to administer the interviews also randomly assigned the respondent to the stimulus conditions which are described below.

41. The CAPI system used to administer the interviews was connected to the Internet so that the data entered by the interviewer was immediately uploaded to a centrally located web server upon completion of each interview. The respondent's computer was also connected to the Internet and the stimulus pages that were shown on the respondent's computer monitor were loaded through a web browser window as they would appear normally when using the Yahoo search engine. The Yahoo opening search page and the search results pages were programmed as actual web pages would be (for example, if a respondent held their cursor over what appeared to be a live link, the cursor would change appearance as it normally would).

Interview Flow

42. Upon being approached in the mall and indicating their willingness to participate in a market research study, prospective participants were asked the screener questions. The interviewer noted each answer given on a paper and pencil screener. If a prospective respondent qualified for the research he or she was brought into the mall testing facility.

43. At the front desk of the facility, the facility supervisor reviewed the screener to determine if the prospective respondent fit an open quota for the age and gender quotas assigned to that mall facility. Only those prospective respondents who met the screening criteria and fit an open quota were brought into the interview room to be interviewed.

44. In the interview room, the respondent was seated in front of a computer monitor and the interviewer seated in front of a second computer. The computers were arranged so that the interviewer could see the screen of the respondent's computer but the respondent could not see the interviewer's computer screen.

45. The interviewer entered the information from the screening questions that had been asked in the mall (Exhibit E shows screen shots of each page of the screener and main questionnaires as administered by the CAPI system). In the event that the CAPI program noted a disqualifying response, the interviewer verified the data by reviewing the paper and pencil record and, if necessary, re-asking the question.

46. The interviewer proceeded to instruct the respondent as to the details of the study and selected a stimulus condition (called "scenario" on the respondent's

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screen) that had been randomly assigned by the CAPI program. When the scenario number appeared on the respondent's monitor, the interviewer had the respondent read the number, which was then recorded in the CAPI system to ensure that the correct scenario was shown on the respondent's computer. When the Yahoo opening search page (Exhibit F) appeared on the respondent's monitor, a card showing the term "American Airlines" was handed to the respondent and he/she was asked to type in the search term exactly as it appeared on the card.³⁷ A search results page then appeared on the respondent's computer screen. The search results page remained visible on the respondents computer screen for the remainder of the interview.

47. The main questionnaire was also an interviewer-administered questionnaire and all of the data collected in response to the questions asked were entered into the same CAPI program that was used to record the screener data.

Screener Questionnaire

48. The screener questionnaire included questions designed to screen for respondents who qualified for the research by meeting the criteria set forth above as well as several commonly used industry criteria.³⁸ The questions used to screen potential respondents are provided in Exhibit G.

49. Potential respondents qualified to participate in the research if they:

- had either used the Yahoo search engine in the past 12 months or would consider doing so in the next 12 months, and
- had either purchased airline tickets online in the past 12 months or who would consider doing so in the next 12 months, and
- had either traveled on American Airlines in the past 12 months or who would consider doing so in the next 12 months, and
- were 18 years of age or older and on the basis of their age and gender fit into an open quota cell for the research such that the final sample was split equally between males and females and the three age groups (18-34, 35-49 and 50 years of age or older), and

³⁷ The term "American Airlines" was chosen as the trademark for this test because it is overwhelmingly the most commonly used search term (used 40-45% of the time by searchers) as compared to the next most common search term (used 10-11% of the time). (Sources: American Airlines (AA Search Terms 5-5-07 (AAG-TM-00409798-AAG-TM-00409824); AA Search Terms June 2007 (AAG-REPRISE-54517- AAG-REPRISE-54529), Hitwise (AA Search Terms 6-18-05 (AAG-00243312); AA Search Terms 9-10-05 (AAG-00208648)) and Yahoo (Overture 6-18-05 (AAG-TM-00178204); Overture Search Terms 3-26-05 (AAG-00237156)).

³⁸ Prospective respondents were disqualified if they worked for a market research company, a travel agency or had a job in planning travel, an Internet search engine company, an airline or a store or company located in the mall. Prospective respondents were also disqualified if they had participated in a market research study other than a political poll within the past three months.

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- either did not use eyeglasses (or contact lenses) or had their eyeglasses (or contact lenses) with them and were willing to use them if they needed them to read a computer screen.

Main Questionnaire

50. Prior to entering the search term "American Airlines" into the opening search page, respondents were instructed as follows (the text of the main questionnaire is provided in Exhibit H):

"I am now going to ask you to do a search on the internet using this computer. You can use this mouse to move the cursor and the roll button here on the center of the mouse to scroll up and down if you want to. While other participants are being asked to provide their opinions about other products they mentioned purchasing on the internet, one of the things you mentioned that you had purchased or would consider purchasing online was airline tickets. I would like you to imagine that you are planning a trip and are going to search for information about airline tickets using the internet. Today I would like you to conduct a search using the text on this card."

51. Respondents were instructed to look at the search results page as they would normally. After viewing the page, the respondent was first asked: "Which link or links, if any, do you think would take you to an American Airlines company website?" Interviewers recorded each of the links pointed to and/or identified verbally by the respondent.

52. The interviewer then asked the respondent to: "Now please look at the links that you did not mention. Which link or links, if any, do you think are endorsed³⁹ by American Airlines?" The interviewer's CAPI page for this question only showed those links that had not been mentioned by the respondent in response to the previous question. In the event that respondents asked for clarification of the term "endorsed," interviewers provided the following response: "Which link or links, if any, do you think are approved of by American Airlines?"

53. Respondents were then asked follow-up questions concerning why they had chosen a link as one that would either take them to an American Airlines company website or as one that was endorsed by American Airlines. Responses to these follow-up questions were recorded verbatim by the interviewer. The links were presented in the follow-up questions in a randomized sequence for each of follow-up question.

³⁹ The Court of Appeals for the Fifth Circuit has used the terms approved, sponsored, and endorsed interchangeably in evaluating claims of trademark infringement. *Elvis Presley Enters, Inc. v Capece*, 141 F.3d 188 (5th Cir. 1998); *Pebble beach Co. v Tour 181*, 550 F.3d 465 (5th Cir. 1998); *Bd. Of Supervisors for La. State Univ. Agric. Mech. College v Amack Apparel Co.*, 155 F.3d 526 (5th Cir. 2008).

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by
Basil G. Englis, Ph.D.

<u>American Airlines AAdvantage MasterCard</u> Apply now and earn 15,000 bonus miles after your first purchase. www.creditstep.com	Position #3 on top right, to the right of "organic" search results
<u>Save 55% on American Airlines Tickets</u> Hot new deals, Book Now & Save Big! Special Roundtrip & One Way Fares. Airlines. Buy-CheapTickets.com	Position #1 on bottom left below "organic" search results
<u>American Airlines Collectibles</u> Looking for travel? Find exactly what you want today. www.ebay.com	Position #2 on bottom left below "organic" search results

Test Stimulus #2

56. The Yahoo search page used as the second test stimulus matched the Yahoo search results page used as Test Stimulus #1 in all respects except that the term "American Airlines" was replaced with the term Airline (or Airlines as appropriate).⁴² The term "Aadvantage" was also removed from a link that appeared on the original page in a listing that offered an "American Airlines AAdvantage" MasterCard. The text of these links and their individual positions on the page are shown in Table 2.

Table 2. "Sponsor Results" Shown on the Test Stimulus #2

Search Result Text	Position on Yahoo Search Results Page
<u>Book cheap tickets on Airlines</u> Do-it-yourself online booking. Easy to use with low service... www.globe-travels.com	Position #1 on top left above "organic" search results
<u>Airlines</u> Low fares on Airline ticket reservations. BookAirlineTickets.com	Position #2 on top left above "organic" search results
<u>Save 55% on Airline Tickets</u> Hot new deals, Book Now & Save Big! Special Roundtrip & One Way Fares. Airlines. Buy-CheapTickets.com	Position #1 on top right, to the right of "organic" search results
<u>Airline Collectibles</u> Looking for travel? Find exactly what you want today. www.ebay.com	Position #2 on top right, to the right of "organic" search results

⁴² During the course of the study I also used two separate stimuli to test confusion levels that may occur when Yahoo publishes specific results in among Yahoo's algorithmic results as part of the "Search Submit Pro" service that Yahoo offers to advertisers (<http://searchmarketing.yahoo.com/rchsb/ssp.php>). I have not been asked to opine on the results of these two stimulus conditions in this report, but will disclose all such results to Yahoo and would be prepared to discuss such results if called upon to do so.

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<u>Airlines MasterCard</u> Apply now and earn 15,000 bonus miles after your first purchase. www.creditstep.com	Position #3 on top right, to the right of "organic" search results
<u>Save 55% on Airline Tickets</u> Hot new deals, Book Now & Save Big! Special Roundtrip & One Way Fares. Airlines.Buy-CheapTickets.com	Position #1 on bottom left below "organic" search results
<u>Airline Collectibles</u> Looking for travel? Find exactly what you want today. www.ebay.com	Position #2 on bottom left below "organic" search results

Control Stimulus

57. A control stimulus is typically used in studies of potential trademark confusion as a means of assessing background "noise" or instances of confusion that are not relevant to the alleged trademark infringement.⁴³ The control stimulus was designed to assess the level of background "noise" that might occur when respondents selected any of the sponsored links when the infringing conditions were removed. The control stimulus presented the original seven sponsored links without the presence of the term "American Airlines," and in a manner that clearly and unambiguously identified those results as paid advertisements.

58. Specifically, the control stimulus was constructed by using elements commonly found on Yahoo opening search pages and other Yahoo web pages.⁴⁴ These elements were arrayed along the right-hand margin of the search results page as they would appear on Yahoo opening search pages. The elements and the order in which they were included were: a Yahoo information box titled "Check your mail status" that duplicated the one shown on the opening Yahoo search page used in this study, an advertisement taken from a Yahoo opening search page and now titled "Yahoo PAID ADVERTISEMENT," a Yahoo information box titled "The New Yahoo Mobile," a Yahoo information box titled "Pulse – What Yahoos Are Into," and a Yahoo information box titled "Today's Top Searches" that duplicated the one shown on the opening Yahoo search page used in this study. The last box, now titled "Yahoo PAID ADVERTISEMENTS," contained the seven original Sponsor Results except that the term "American Airlines" was absent. These were presented in the same order as in the two test stimuli. The first line in each of these Sponsor Results, the terms Yahoo PAID ADVERTISEMENTS and a vertical line used to demarcate the

⁴³ Diamond (2000). Reference Guide on Survey Research. In Reference Manual on Scientific Evidence, 2nd Edition.

⁴⁴ The approach used in creating the control stimulus is consistent with the views of Yahoo CEO in "...presenting a more consistent look across Yahoo's sites." (Vance (2009). Yahoo Chief: 'We Have Never Been a Search Company'. *New York Times: Bits*. <http://bits.blogs.nytimes.com/2009/08/07/yahoo-ceo-we-have-never-been-a-search-company/?pagemode=print>).

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right-hand column from the organic search results were all colored in the same red used in the Yahoo logo.

Measures of Confusion

59. In response to two separate questions, respondents indicated which links, if any, they thought would take them to an American Airlines website (“Takes To” question) and which links, if any, were endorsed by American Airlines (“Endorsed” question).⁴⁵ There were seven Sponsor Results found on the original Yahoo search results page that was used as Test Stimulus #1. Test Stimulus #1 was a replication of the original Yahoo search results page. If a respondent identified any one of these seven links in response to either question, then he/she was counted as being confused.

60. In response to two separate questions, respondents indicated which links, if any, they thought would take them to an American Airlines website and which links, if any, were endorsed by American Airlines. There were seven sponsored links found on the original Yahoo search results page that was used as Test Stimulus #2 except that the term “American Airlines” was absent. If a respondent identified any one of these seven links in response to either question, then he/she was counted as being confused.

61. For the Control Stimulus, respondents were asked the same two separate questions, and respondents indicated which links, if any, they thought would take them to an American Airlines website and which links, if any, were endorsed by American Airlines. The same seven Sponsor Results found on the original Yahoo search results page were used in the Control Stimulus except that the term “American Airlines” was absent and the links all appeared in a box on the lower-right under a banner “Yahoo PAID ADVERTISEMENTS. If a respondent identified any one of these seven links in response to either question, then he/she was counted as being confused.

62. The responses to the two questions, Takes To and Endorsed, were scored separately to provide measures reflecting confusion as to source (Takes To question) as well as confusion as to endorsement (Endorsed question). In these two measures, it was possible for a respondent to be scored as confused in response to both the Takes To and Endorsed questions. A third measure was computed to reflect the total confusion found (“Total Confusion”). For this measure a given respondent was scored as either confused or not if they responded to either the Takes To or Endorsed question. Even if a respondent provided evidence of being confused in the

⁴⁵ The Court of Appeals for the Fifth Circuit has used the terms approved, sponsored, and endorsed interchangeably in evaluating claims of trademark infringement. *Elvis Presley Enters, Inc. v Capece*, 141 F.3d 188 (5th Cir. 1998); *Pebble beach Co. v Tour 181*, 550 F.3d 465 (5th Cir. 1998); *Bd. Of Supervisors for La. State Univ. Agric. Mech. College v Amack Apparel Co.*, 155 F.3d 526 (5th Cir. 2008).

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Takes To as well as the Endorsed question, they were counted only once for the measure of Total Confusion.

63. Respondents were also asked probing questions as to why they had indicated a particular link in response to either the question of which links, if any, they thought would take them to an American Airlines website and which links, if any, were endorsed by American Airlines. A colleague and I reviewed the verbatim responses given to the follow-up questions for the seven Sponsor Results to determine if there were any instances where a respondent had been scored as confused but where their verbal explanation did not support that conclusion.⁴⁶

IX. RESULTS

Test 1

64. In Test 1, 270 respondents viewed Test Stimulus #1 (the original Yahoo search results page where the Sponsor Results included the terms "American Airlines" and "AAdvantage"). As shown in Table 3, the measure of Total Confusion shows that 49.6% (134 respondents) of consumers were confused as to the source or endorsement of one or more of the Sponsor Results presented on the search results page.

65. In the Control Condition, 270 respondents viewed the Control Stimulus. As shown in Table 3, the measure of Total Confusion shows that 9.6% (26 respondents) of consumers were confused as to the source or endorsement of one or more of the Sponsor Results.

66. As is typically done in studies of trademark confusion, a measure of net confusion was computed. Net confusion is measured by subtracting the level of confusion found in the control condition from that found in the test condition.

67. The net confusion for the Total Confusion measure (Table 3) in Test 1 was 40.0%. As indicated in Table 3, all three measures (Takes To, Endorsed and Total Confusion) show significant levels of confusion.

⁴⁶ If a verbatim clearly and unambiguously showed that the respondent was in fact NOT confused, even though they had identified a "confusing" link on the webpage, then that respondent would be removed from the "confused" category, and counted instead in the "not confused" category of responses.

Table 3: Measures of Confusion for Test 1.

	"Takes To" Question ^a	"Endorsed" Question ^b	Total Confusion ^c
Test Stimulus #1	25.2% (68)	32.6% (88)	49.6% (134)
Control Stimulus	3.3% (9)	7.0% (19)	9.6% (26)
Net Confusion	21.9%	25.6%	40.0%

^a $X^2(1) = 52.7, p < .00001.$

^b $X^2(1) = 55.5, p < .00001.$

^c $X^2(1) = 101.6, p < .000001.$

Test 2

68. In Test 2, 270 respondents viewed Test Stimulus #2 (the original Yahoo search results page where the Sponsor Results did not include the terms "American Airlines" and "AAdvantage"). As shown in Table 4, the measure of Total Confusion shows that 24.8% (67 respondents) of consumers were confused as to the source or endorsement of one or more of the Sponsor Results presented on the search results page.

69. The same procedures for computing confusion in the Control Condition were used in Test 2. As shown in Table 4, 270 respondents viewed the Control Stimulus. The measure of Total Confusion shows that 9.6% (26 respondents) of consumers were confused as to the source or endorsement of one or more of the Sponsor Results

70. Net confusion in Test 2, is measured by subtracting the level of confusion found in the control condition from that found in the test condition.

71. The net confusion for the Total Confusion measure (Table 4) in Test 2 was 15.2%. As indicated in Table 4, all three measures (Takes To, Endorsed and Total Confusion) show significant levels of confusion.

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Table 4: Measures of Confusion for Test 2.

	"TakesTo" Question ^a	"Endorsed" Question ^b	Total Confusion ^c
Test Stimulus #2	13.3% (36)	13.7% (37)	24.8% (67)
Control Stimulus	3.3% (9)	7.0% (19)	9.6% (26)
Net Confusion	10.0%	6.7%	15.2%

^a $X^2(1) = 17.7, p < .00003.$

^b $X^2(1) = 6.45, p < .016.$

^c $X^2(1) = 21.8, p < .00001.$

X. CONCLUSIONS

72. I conclude that a significant number of consumers in the relevant population are likely to be confused when conducting a search for American Airlines, and then being presented with a search results page containing Sponsor Results. These substantial levels of confusion occur in both test conditions: whether the Sponsor Results include the term "American Airlines" or whether they do not. My opinion is based on the following key findings:

In Test 1 the net total confusion was 40.0%.

In Test 2 the net total confusion was 15.2%

Given the size of the relevant population, substantial numbers of consumers are affected.

73. The findings are consistent with academic and commercial research on consumer use of search engines and responses to their results.⁵³ Research that has been conducted concerning consumers' ability to distinguish between sponsored and organic search results reports results that range from 30%⁵⁴ to 41%⁵⁵ to 56%⁵⁶ to 62%⁵⁷ of consumers are unable to accurately distinguish between the two.

⁵³ Fallows (2008). Search Engine Use. Pew Internet & American Life Project. 360i/Search Ignite (2006). Giving clicks Credit Where They're Due, Part Two: The Value of Assists for Natural and Paid Search Conversions.

⁵⁴ Hotchkiss (2006). Eye Tracking Study II: Google, MSN and Yahoo! Compared. Enquiro Search Solutions.

⁵⁵ Marable (2003) False Oracles: Consumer Reaction to Learning the Truth About How Search Engineswork, Results of an Ethnographic Study. Consumer Reports WebWatch.

⁵⁶ iCrossing (2005). How America Searches. (AAG-52159- AAG-52174)

⁵⁷ Fallows (2005). Search Engine Users. Pew Internet & American Life Project.

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74. The findings are also consistent with research showing that consumers pay particular attention to search results that provide relevant information, especially in the form of brand names.⁵⁸ Similarly, the findings are consistent with studies conducted by other experts involving the use of trademarks as keywords in search engines and the presence of trademark terms in sponsored results.⁵⁹

75. It is likely that the present findings understate the total level of consumer confusion in that important cues that might potentially distinguish sponsored from organic results no longer appears on Yahoo search results pages.⁶⁰ In 2009 the left-hand column of search results shows organic results that are no longer numbered and sponsored results that are no longer preceded by bullet points. A study by Consumer Reports WebWatch⁶¹ noted that during the period 2002-2005 Yahoo made numerous changes to its search results pages that made sponsored and organic search less distinct from each other. The WebWatch report concludes: "It remains doubtful that many Yahoo users -- and as the second most-trafficked website, this means millions of consumers -- have any idea that "Search Results" contain paid inclusion listings." Results from the present study strongly indicate that the problem is ongoing.

76. Consumers typically spend very little time scanning a search results page (typically 10 seconds or less) before clicking on a link.⁶² On the basis of the interviews that I observed (as well as other study metrics⁶³) it appeared that consumers in the present study spent well over 10 seconds scanning the search results page. Given this observed behavior, the present test is a conservative estimate of confusion because consumers spending more time scanning search results would be expected to be less confused than if they spent less time scanning the results.

⁵⁸ Fallows (2008). Search Engine Use. Pew Internet & American Life Project. Marable (2006). False Oracles: Consumer reaction to Learning the Truth about How Search Engines Work. Consumer Reports WebWatch. Hotchkiss (2006). Eye Tracking Study II: Google, MSN and Yahoo! Compared. Enquiro Search Solutions. Enquiro (2004). Search Engine Usage in North America. Enquiro Search Solutions. 360i/Search Ignite (2006). Giving clicks Credit Where They're Due: What You Need to Know When Allocating Your Search Budget. (AAG-REPRISE-00001116-AAG-REPRISE-00001127). 360i/Search Ignite (2006). Giving clicks Credit Where They're Due, Part Two: The Value of Assists for Natural and Paid Search Conversions.

⁵⁹ Report of Gary Ford: Geico Survey re - Google and Yahoo! (September, 2004). Expert Report of Kent D. van Liere, Ph.D. (American Airlines v. Google) (May, 2008). Expert Report of Alvin Ossip (American Blinds, Inc. v. Google) (October, 2006).

⁶⁰ Rothman (2005). Initial Interest Confusion: Standing at the Crossroads of Trademark Law. *Cardoza Law Review*, 27, 105-191.

⁶¹ Wouters (2005). Still in Search of Disclosure: Re-evaluating How Search Engines Explain the Presence of Advertising in Search Results. Consumer Reports WebWatch.

⁶² Hotchkiss (2006). Eye Tracking Study II: Google, MSN and Yahoo! Compared. Enquiro Search Solutions. Also, Visual Attention to Online Search Engine Results (by van Gisbergen, van der Most, Aelen, de Vos & Jansen).

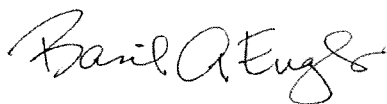
⁶³ The average length of time for each interview was 15 minutes. The respondents that I and my staff observed did not rush through their reading of the search results pages.

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77. The term “American Airlines” is a brand with a history of more than 80 years and it is a brand that is well-known to U.S. consumers. Over the years American Airlines has extended this brand to cover new products and services and new channels as for example, when it introduced the “AAAdvantage” rewards program, “American Eagle” service, or when it introduced “AA.com” as an online channel.⁶⁴ This is a common practice referred to as “brand extension.” Brand extensions are a means of introducing new products under brands that are similar to the “parent” brand so as to facilitate the transfer of brand meanings and goodwill to the new product.⁶⁵ Over time, these brand extensions become firmly established in consumers’ minds in association with the parent brand and consumers’ behaviors generalize to the new brands. Brand extension is a commonly used strategic branding decision where a family of brands is created as a means of always referring consumers back to the parent brand.⁶⁶ Therefore, the results obtained in the present research should be expected to generalize to instances where consumers use other American Airlines Marks to search for American Airlines.

78. It is well recognized in the field of marketing and consumer research that consumers behave as cognitive misers with respect to information search and decision-making and that they often rely on heuristics, or mental rules of thumb. One of the most powerful heuristics is a brand name.⁶⁷ This is consistent with the present results but also suggests that once consumers have mistakenly clicked on a sponsored link that they believe either will take them to an American Airlines website or to a website endorsed by American Airlines, there is no reason to believe their confusion would dissipate once consumers click through to the advertiser’s website.⁶⁸

I swear that the foregoing is true and correct under the penalty of perjury under the laws of the United States of America.



Basil G. Englis, Ph.D.

August 14, 2009
Date

⁶⁴ American Airlines History: <http://www.aa.com/aa/i18nForward.do?p=/amrcorp/corporateInformation/facts/history.jsp>.

⁶⁵ Keller (1998). Building, Measuring, and Managing Brand Equity. Prentice-Hall.

⁶⁶ Ibid. Solomon (2009). Consumer Behavior: Buying, Having and Being. Pearson.

⁶⁷ Ibid.

⁶⁸ 360i/Search Ignite (2006). Giving clicks Credit Where They’re Due: What You Need to Know When Allocating Your Search Budget. (AAG-REPRISE-00001116- AAG-REPRISE-00001127). 360i/Search Ignite (2006). Giving clicks Credit Where They’re Due, Part Two: The Value of Assists for Natural and Paid Search Conversions.

Test S mulus#1: Original Yahoo! search results page (screenshot taken from web in August, 2007)

Yahoo! Search

Welcome Guest (Sign In) Home

YAHOO! SEARCH

Web | Images | Video | Local | Shopping | more >>

American Airlines [Advanced Search](#)

Search Results

1 - 10 of 32,800,000 for American Airlines - 0.03 sec. [About this page](#)

Also try: [American Airlines Flight Status](#), [American Airlines Center](#), [More...](#)

- [Book cheap tickets on American Airlines](#)
Do-it-yourself online booking. Easy to use with low service...
[www.globe-travels.com](#)
- [American Airlines](#)
Low fares on American Airlines ticket reservations.
[BookAirlineTickets.com](#)
- 1. [American Airlines](#) (NYSE: [AAIR](#))
Official site of [American Airlines](#), with reservations, flight schedules, ticket specials, travel planning, membership, and company news. Also operates the [American...](#)
[www.aa.com](#) - 101k - [Cached](#)
- 2. [American Airlines Reservations](#)
Book flights, check available seats, and purchase upgrades at [American Airlines Reservations](#). Also features vacation package and fare sale information.
[www.aa.com/apps/reservations/ReservationsHome.html](#) - 65k - [Cached](#)
- 3. [American Airlines Flight Schedules](#)
Search for [American Airlines](#) flight schedules worldwide. Allows searchers to check only flights with available seats or look at all flights, regardless of seat...
[www.aa.com/apps/reservations/ViewOneWayFlightSchedules.html](#) - 21k - [Cached](#)
- 4. [American Airlines AAdvantage](#)
Frequent flyer program provided by [American Airlines](#). Site allows you to view accrued miles, upgrade options, and bonus offers.
[www.aa.com/apps/AAdvantage/AAdvantageHome.html](#) - 33k - [Cached](#)
- 5. [American Airlines Vacations](#)
Browse interactive destination vacation brochures at [American Airlines Vacations](#). Online booking available for vacation packages.
[www.aavacations.com](#) - 87k - [Cached](#)
- 6. [American Airlines Careers](#)
Information on a range of careers within [American Airlines](#). Find administrative, customer service, flight attendant, maintenance, management, and pilot jobs.
[www.aacareers.com](#) - 1k - [Cached](#)
- 7. [American Airlines Center](#)
Sporting venue in Dallas, Texas, that is home to the Mavericks, Stars, and Dasperados. Provides an event schedule, seating chart, directions, parking details, and...
[www.americanairlinescenter.com](#) - 36k - [Cached](#)
- 8. [American Airlines Arena](#)
Official site of the [American Airlines Arena](#) in Miami, Florida. Provides an event calendar, updates on the Miami Heat basketball team, photo galleries, and more.
[www.aaarena.com](#) - 40k - [Cached](#)
- 9. [American Airlines Cargo](#)
Covering services, shipment tracking and instructions, news, and more from [American Airlines Cargo](#). Includes details about the Priority Parcel Service as well.
[www.aacargo.com](#) - 28k - [Cached](#)
- 10. [American Airlines - Wikipedia, the free encyclopedia](#)
[American Airlines \(AA\)](#) is the largest airline in the world in terms of total... [American Eagle Airlines](#) is a Fort Worth, Texas-based regional airline partner of ...
Quick links: [History](#) [Formation](#) [American Airlines before World War II](#)
[en.wikipedia.org/wiki/American_Airlines](#) - 152k - [Cached](#)

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Save 55% on American Airlines Tickets
Hot new deals. Book Now & Save Big! Special Roundtrip & One Way Fares.
[Airlines.Buy.CheapTickets.com](#)

American Airlines Collectibles
Looking for travel? Find exactly what you want today.
[www.ebay.com](#)

American Airlines AAdvantage MasterCard
Apply now and earn 15,000 bonus miles after your first purchase.
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Also try: [American Airlines Flight Status](#), [American Airlines Center](#), [More...](#)

1 2 3 4 5 6 7 8 9 10 [Next](#)

American Airlines

Out on the town? Get local movie times on your phone with [Y! oneSearch](#)

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Test S mulus#2: Original Yahoo! search results page with the term "American Airlines" removed from Sponsor Results (screenshot 2007)

Yahoo! Search

Welcome Guest [Sign In] [Help]

YAHOO! SEARCH

Web | Images | Video | Local | Shopping | more >>

American Airlines

Search

Advanced Search

Search Results

1 - 10 of 32,600,000 for American Airlines - 0.03 sec. (About this page)

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Do-it-yourself online booking. Easy to use with low service...
[www.globe-travels.com](#)
- [Airlines](#)
Low fares on Airline ticket reservations.
[BookAirlineTickets.com](#)
- 1. [American Airlines \(NYSE: AAL\)](#)
Official site of American Airlines, with reservations, flight schedules, ticket specials, travel planning, membership, and company news. Also operates the American...
[www.aa.com](#) - 191k - [Cached](#)
- 2. [American Airlines Reservations](#)
Book flights, check available seats, and purchase upgrades at American Airlines Reservations. Also features vacation package and fare sale information.
[www.aa.com/apps/reservations/ReservationsHome.jhtml](#) - 85k - [Cached](#)
- 3. [American Airlines Flight Schedules](#)
Search for American Airlines flight schedules worldwide. Allows searchers to check only flights with available seats or look at all flights, regardless of seat ...
[www.aa.com/apps/reservations/ViewOneWayFlightSchedules.jhtml](#) - 21k - [Cached](#)
- 4. [American Airlines AAdvantage](#)
Frequent flyer program provided by American Airlines. Site allows you to view accrued miles, upgrade options, and bonus offers.
[www.aa.com/apps/AAdvantage/AAdvantageHome.jhtml](#) - 33k - [Cached](#)
- 5. [American Airlines Vacations](#)
Browse interactive destination vacation brochures at American Airlines Vacations. Online booking available for vacation packages.
[www.aavacations.com](#) - 37k - [Cached](#)
- 6. [American Airlines Careers](#)
Information on a range of careers within American Airlines. Find administrative, customer service, flight attendant, maintenance, management, and pilot jobs.
[www.aacareers.com](#) - 1k - [Cached](#)
- 7. [American Airlines Center](#)
Sporting venue in Dallas, Texas, that is home to the Mavericks, Stars, and Desperados. Provides an event schedule, seating chart, directions, parking details, and...
[www.americanairlinescenter.com](#) - 38k - [Cached](#)
- 8. [American Airlines Arena](#)
Official site of the American Airlines Arena in Miami, Florida. Provides an event calendar, updates on the Miami Heat basketball team, photo galleries, and more.
[www.aaarena.com](#) - 46k - [Cached](#)
- 9. [American Airlines Cargo](#)
Covering services, shipment tracking and instructions, news, and more from American Airlines Cargo. Includes details about the Priority Parcel Service as well.
[www.aacargo.com](#) - 26k - [Cached](#)
- 10. [American Airlines - Wikipedia, the free encyclopedia](#)
American Airlines (AA) is the largest airline in the world in terms of total ... American Eagle Airlines is a Fort Worth, Texas-based regional airline partner of ...
Quick links: [History](#) | [Formation](#) | [American Airlines before World War II](#)
[en.wikipedia.org/wiki/American_Airlines](#) - 152k - [Cached](#)

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Airlines MasterCard
Apply now and earn 15,000 bonus miles after your first purchase.
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1 2 3 4 5 6 7 8 9 10 Next

American Airlines

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Control S mulus: Yahoo! search results page showing adver sing material in right-hand column.

Local Malvern, PA

Welcome, Guest [Sign In] Help

YAHOO! SEARCH

Web | Images | Video | Local | Shopping | more >>

American Airlines Advanced Search

Search Results

1 - 10 of 32,800,000 for American Airlines - 0.03 sec. (About this page)

Also try: [American Airlines Flight Status](#), [American Airlines Center](#), [More...](#)

- American Airlines** (NYSE: AMR)
Official site of American Airlines, with reservations, flight schedules, ticket specials, travel planning, membership, and company news. Also operates the American...
www.aa.com - 101k - [Cached](#)
- American Airlines Reservations**
Book flights, check available seats, and purchase upgrades at American Airlines Reservations. Also features vacation package and fare sale information.
www.aa.com/apps/reservations/ReservationsHome.jhtml - 63k - [Cached](#)
- American Airlines Flight Schedules**
Search for American Airlines flight schedules worldwide. Allows searchers to check only flights with available seats or look at all flights, regardless of seat...
www.aa.com/apps/reservations/ViewOneWayFlightSchedules.jhtml - 21k - [Cached](#)
- American Airlines AAdvantage**
Frequent flyer program provided by American Airlines. Site allows you to view accrued miles, upgrade options, and bonus offers.
www.aa.com/apps/AAdvantage/AAdvantageHome.jhtml - 63k - [Cached](#)
- American Airlines Vacations**
Browse interactive destination vacation brochures at American Airlines Vacations. Online booking available for vacation packages.
www.aavacations.com - 67k - [Cached](#)
- American Airlines Careers**
Information on a range of careers within American Airlines. Find administrative, customer service, flight attendant, maintenance, management, and pilot jobs.
www.aacareers.com - 1k - [Cached](#)
- American Airlines Center**
Sporting venue in Dallas, Texas, that is home to the Mavericks, Stars, and Desperados. Provides an event schedule, seating chart, directions, parking details, and...
www.americanairlinescenter.com - 38k - [Cached](#)
- American Airlines Arena**
Official site of the American Airlines Arena in Miami, Florida. Provides an event calendar, updates on the Miami Heat basketball team, photo galleries, and more.
www.aaarena.com - 46k - [Cached](#)
- American Airlines Cargo**
Covering services, shipment tracking and instructions, news, and more from American Airlines Cargo. Includes details about the Priority Parcel Service as well.
www.aacargo.com - 23k - [Cached](#)
- American Airlines - Wikipedia, the free encyclopedia**
American Airlines (AA) is the largest airline in the world in terms of total... American Eagle Airlines is a Fort Worth, Texas-based regional airline partner of...
Quick links: [History](#) | [Formation](#) | [American Airlines before World War II](#)
en.wikipedia.org/wiki/American_Airlines - 152k - [Cached](#)

Also try: [American Airlines Flight Status](#), [American Airlines Center](#), [More...](#)

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- Rihanna's surprising new 'do
- Shia gets a workout
- Audrina gets her shop on
- Kristen & Rachel strike a pose
- Mary-Kate's in the hills

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1. Karl Malden	5. Debbie Rowe
2. Burmese Python	7. Jeremy Mayfield
3. Andy Roddick	8. Graceland
4. Ice Age 3	9. California Budget
5. Rick Astley	10. 4th of July Clip Art

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American Airlines

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

YAHOO! INC. and OVERTURE SERVICES,
INC. d/b/a YAHOO! SEARCH MARKETING,

Defendants.

Civil Action No. 4-08CV-626-A

**PLAINTIFF AMERICAN AIRLINES, INC.'S OBJECTIONS AND RESPONSES TO
YAHOO'S FIRST SET OF REQUESTS FOR ADMISSION**

Plaintiff American Airlines, Inc. ("American") hereby makes its objections and responses to Defendants Yahoo! Inc. and Overture Services, Inc.'s (collectively, "Yahoo") Responses to Plaintiff's First Request for Admission, as follows:

REQUESTS FOR ADMISSION

I. REVENUE, ADVERTISING, AND AA.COM RECORDS

REQUEST FOR ADMISSION NO. 1:

YOUR percentage of passenger flown revenue attributable to tickets booked or sold directly by American Airlines was lower in 2007 than in 2006.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "booked or sold" renders this request compound and useless as a request to admit because it would cause any response to necessarily be misleading; 2) it does not define or limit the term "directly" rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it. Subject to and without waiving its objections, American responds that it lacks knowledge or information sufficient to respond to this request, which also calls for a legal conclusion based on compound facts and on that basis, denies it.

REQUEST FOR ADMISSION NO. 42:

The company that operates the website www.Globe-travels.com has been an AMERICAN AIRLINES AUTHORIZED AGENT since at least December 19, 2002.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "company that operates the website" is vague and ambiguous and Yahoo does not identify "[t]he company" referenced in the request and does not define or limit the term, rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it; 2) it presupposes that only one company has operated www.Globe-travels.com since December 19, 2002; 3) the definition of the term "American Airlines Authorized Agent" includes the phrase "sell or book" rendering this request compound and useless as a request to admit; 4) any response would necessarily be misleading; and 5) it is vague and ambiguous as to whether or not it seeks to determine whether "[t]he company" has been an American Airlines agent for part or all of the time since December 19, 2002. Subject to and without waiving these objections, American responds that Globe-travels has been a party to the ARC Agreement and its amendments.

REQUEST FOR ADMISSION NO. 43:

The company that operates the website www.Lowestfare.com has been an AMERICAN AIRLINES AUTHORIZED AGENT since at least December 19, 2002.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "company that operates the website" is vague and ambiguous and Yahoo does not identify "[t]he company" referenced in the request and does not define or limit the term, rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it; 2) it presupposes that only one company has operated www.Lowestfare.com since December 19, 2002; 3) the definition of the term "American Airlines Authorized Agent" includes the phrase "sell or book" rendering this request compound and useless as a request to admit; 4) any response would necessarily be misleading; and 5) it is vague and ambiguous as to whether or not it seeks to determine whether "[t]he company" has been an American Airlines agent for part or all of the time since December 19, 2002. Subject to and without waiving these objections, American responds that Lowestfare has been a party to the ARC Agreement and its amendments.

REQUEST FOR ADMISSION NO. 44:

The company that operates the website www.Skyauction.com has been an AMERICAN AIRLINES AUTHORIZED AGENT since at least December 19, 2002.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "company that operates the website" is vague and ambiguous and Yahoo does not identify "[t]he company" referenced in the request and does not define or limit the term, rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it; 2) it presupposes that only one company has operated www.Skyauction.com since December 19, 2002; 3) the definition of the term "American Airlines Authorized Agent" includes the phrase "sell or book" rendering this request compound and useless as a request to admit; 4) any response would necessarily be misleading; and 5) it is vague and ambiguous as to whether or not it seeks to determine whether "[t]he company" has been an American Airlines agent for part or all of the time since December 19, 2002. Subject to and without waiving these objections, American responds that Skyauction has been a party to the ARC Agreement and its amendments.

REQUEST FOR ADMISSION NO. 45:

The company that operates the website www.BookAirlineTickets.com has been an AMERICAN AIRLINES AUTHORIZED AGENT since at least December 19, 2002.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "company that operates the website" is vague and ambiguous and Yahoo does not identify "[t]he company" referenced in the request and does not define or limit the term, rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it; 2) it presupposes that only one company has operated www.BookAirlineTickets.com since December 19, 2002; 3) the definition of the term "American Airlines Authorized Agent" includes the phrase "sell or book" rendering this request compound and useless as a request to admit; 4) any response would necessarily be misleading; and 5) it is vague and ambiguous as to whether or not it seeks to determine whether "[t]he company" has been an American Airlines agent for part or all of the time since December 19, 2002. Subject to and without waiving these objections, American responds that BookAirlineTickets has been a party to the ARC Agreement and its amendments.

REQUEST FOR ADMISSION NO. 55:

The company that operates the website www.Buy-CheapTickets.com has been an AMERICAN AIRLINES AUTHORIZED AGENT since at least December 19, 2002.

RESPONSE:

American objects to this request on the following grounds: 1) the phrase "company that operates the website" is vague and ambiguous and Yahoo does not identify "[t]he company" referenced in the request and does not define or limit the term, rendering the entire request vague and ambiguous to such an extent that American cannot attach any clear meaning to it; 2) it presupposes that only one company has operated www.Buy-CheapTickets.com since December 19, 2002; 3) the definition of the term "American Airlines Authorized Agent" includes the phrase "sell or book" rendering this request compound and useless as a request to admit; 4) any response would necessarily be misleading; and 5) it is vague and ambiguous as to whether or not it seeks to determine whether "[t]he company" has been an American Airlines agent for part or all of the time since December 19, 2002. Subject to and without waiving these objections, American responds that Buy-CheapTickets has been a party to the ARC Agreement and its amendments.

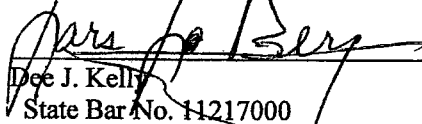
REQUEST FOR ADMISSION NO. 56:

Orbitz.com sought advance approval from American Airlines before December 19, 2006, for the selection of KEYWORDS on SEARCH ENGINES that were the same as one or more of the American Airlines marks listed in the COMPLAINT.

RESPONSE:

American objects to this request on the following grounds: 1) it provides only an incomplete hypothetical because it does not identify a specific "mark", "keyword", "search engine" or date; 2) the use of "one or more" makes the request compound and useless as a request to admit; 3) the term "selection" is not limited or defined and thus is vague and ambiguous to such an extent that American cannot attach any clear meaning to it; and 4) any response would necessarily be misleading. Subject to and without waiving its objections, American requests Yahoo to provide whatever facts it is aware of on this issue, and pending receipt of that information from Yahoo, American denies the request.

Respectfully submitted,



Dee J. Kelly
State Bar No. 11217000

Dee J. Kelly, Jr.
State Bar No. 11217250

Lars L. Berg
State Bar No. 00787072

Scott R. Wiehle
State Bar No. 24043991

KELLY HART & HALLMAN LLP

201 Main Street, Suite 2500

Fort Worth, Texas 76102

Phone: (817) 332-2500

Fax: (817) 878-9280

Of Counsel:

Howard S. Hogan
GIBSON, DUNN & CRUTCHER LLP

1050 Connecticut Avenue, N.W.

Washington, D.C. 20036

Phone: (202) 955-8500

Fax: (202) 467-0539

Frederick Brown

George A. Nicoud III

Jason B. Stavers

GIBSON, DUNN & CRUTCHER LLP

555 Mission Street, Suite 3000

San Francisco, CA 94105

Phone: (415) 393-8200

Fax: (415) 986-5309

ATTORNEYS FOR AMERICAN AIRLINES, INC.

CERTIFICATE OF SERVICE

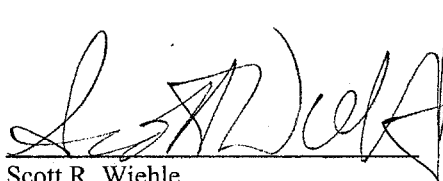
The undersigned does hereby certify that a true and correct copy of the foregoing document has been served on all parties via email and FedEx on October 5, 2009.

Via Email and FedEx #7979 9231 5373

David F. Chappell
Scott A. Fredricks
CANTEY HANGER LLP
600 West Sixth Street, Suite 300
Fort Worth, TX 76102

Via Email and FedEx #7979 9138 7722

Michael A. Jacobs
MORRISON & FORRESTER LLP
425 Market Street
San Francisco, CA 94105



Scott R. Wiehle

C

From: O'Reilly, Rebecca
Sent: Wednesday, August 15, 2007 1:03 AM
To: Don Aydon
Cc: Curry, Alice; McAlexander, Laura
Subject: American Airlines Trademarks - F&M Document
Attachments: Yahoo - 2007-08_14.zip

Hi Don,

Hope you are doing well.

I've documented another example of false and misleading content in regards to American Airlines trademarks. Please refer to the following attachments:

- **F&M Notification Requirements – American Airlines 2007-08_14.doc**
- **Yahoo Screenshots – American Airlines 2007-08_14.jpg**
- **Airlines.Buy-CheapTickets.com.jpg**

Please review with the appropriate Yahoo! team(s) so we can resolve the F&M content issues.

Regards,
Rebecca

Rebecca O'Reilly
American Airlines
AA.com Interactive Marketing
Rebecca.OREilly@aa.com
817.931.9986

10/30/2007

AAY-000015298

Englis App. 037

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To:

Departure Date:

Return

From:
To:

Departure Date:

I prefer non-stop flights.

Number of Travelers: #Children (Under Age 12):

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American Airlines Customer Relations
Mail Drop 2400
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Dallas, TX 75261

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- **Major Hub Cities:** Dallas (DFW), St. Louis (STL), London (LHR), Raleigh/Durham (RDU), Boston (BOS), Chicago (MDW), Chicago (ORD)
- **Regions Served:** American Airlines operates throughout the United States and Canada, and provides service to Europe, Japan, and Latin America.
- **History:** American Airlines was founded in May of 1934. AA helped design and test many aircraft, including the DC-3, DC-7, Comair 390, L-188 Electra and the DC-10.
- **Fleet Information:** American Airlines continues to provide domestic service with aging MD-80 (Super 80) and Fokker-100 aircraft. Recently, American Airlines has invested in Boeing 777 aircraft for service to Europe and Asia. American Airlines also operates Boeing 737, 767 and Airbus A300 aircraft.
- **MileagePlus:** American Airlines is the largest passenger carrier in the world. American Airlines is a founding member of the OneWorld airline alliance, which also includes British Airways and Qantas. American Airlines passengers can participate in the AA Advantage program, where they can earn and redeem miles when flying American Airlines and One World partners. Travelers can also join the AA Advantage Master Card and earn miles whenever making purchases. Miles can be used for free flights and free upgrades aboard American Airlines and some OneWorld partners. Joining AA Advantage is free of charge.

Disclaimer: Buy-cheaptickets provides fares for most major airline carriers, including American Airlines. Buy-cheaptickets is not affiliated with American Airlines.



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6. The following statement verbatim: "I have a good faith belief that the information in this notification is accurate and that I am authorized to make such statements on behalf of the complaining party."

I have a good faith belief that the information in this notification is accurate and that I am authorized to make such statements on behalf of the complaining party.

7. A physical or electronic signature of the complaining party or person authorized to act on behalf of the complaining party.

Rebecca O'Reilly
American Airlines
AA.com Interactive Marketing
Rebecca.OREilly@aa.com
817.931.9986

This notification should be sent to the following:

Yahoo! Search Marketing
Attn: Trademark Dept. – False & Misleading Issue
3333 Empire Ave.
Burbank, CA 91504
Fax: 818 524 3001
Email: trademarkconcern-ysm@yahco-inc.com

Once we receive your completed notification, we may forward it to the party identified in your complaint. That party may either: (a) dispute the notification by filing a counter-notification; or (b) remove or disable the content identified by your complaint.

If Yahoo! Search Marketing receives a counter-notification, the listings will be retained and no further action will be taken with respect to your notification. Yahoo! Search Marketing will forward a copy of the counter-notification to you. On the other hand, if Yahoo! Search Marketing does not receive a response from the party identified in your complaint, the listings will be removed from Yahoo! Search Marketing.

Thank you..

AAY-000015301

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From: McAlexander, Laura
Sent: Wednesday, August 22, 2007 12:06 AM
To: O'Reilly, Rebecca; Curry, Alice
Subject: RE: American Airlines Trademarks - F&M Document

Wow - talk about responsive!

From: Trademark Concern [mailto:trademarkconcern-ysm@yahoo-inc.com]
Sent: Tue 8/21/2007 7:00 PM
To: O'Reilly, Rebecca; Don Aydon
Cc: Curry, Alice; McAlexander, Laura; Trademark Concern
Subject: RE: American Airlines Trademarks - F&M Document

Dear Ms. O'Reilly:

Thank you for your response.

Please note that we have removed all keywords that contain the term AMERICAN AIRLINES (or related brands/variations) from the Airlines.Buy-CheapTickets.com account. Airlines.Buy-CheapTickets.com did inform us that they had modified or changed their landing page so as to remove any content that was the subject of your False & Misleading complaint. In doing so, they seem to have removed all of the content on the page that would have otherwise qualified them to initially bid on these terms under our Trademark Guideline. So, immediately, these terms were removed from their account.

Further, our False & Misleading complaint policy is not necessarily term specific. If the content that is false and/or misleading still appears on the subject site, regardless of the keyword used to arrive at the ad/site, we will not allow access to the material through our network. Thus, we have requested confirmation that the false and/or misleading content is no longer available on the Airlines.Buy-CheapTickets.com site.

With that being said, per my conversation with Don Aydon this afternoon, it is our understanding that there is still content on their site, namely the "AA More Room" logo, that was part of the initial complaint. I have contacted the advertiser to let them know that this logo must be removed immediately if we are to continue to enable access to their site. As this party has been very responsive, I expect that this change will be made shortly. If it is not, then we will disable access to their site until the matter has been resolved.

Also, please note that in the future, should the advertiser resubmit a landing page that does comply with our guidelines and does not contain any known false or misleading content, they can be eligible again to bid on keywords that contain the AA brand.

We hope this clarifies the matter for you. Please let us know if you have any additional questions or concerns.

Thank you,

Debra Carrete
Sr. IP Specialist
Trademark Department
Yahoo! Search Marketing

From: O'Reilly, Rebecca [mailto:Rebecca.O'Reilly@aa.com]
Sent: Tuesday, August 21, 2007 4:05 PM
To: Don Aydon
Cc: Curry, Alice; McAlexander, Laura; Trademark Concern
Subject: RE: American Airlines Trademarks - F&M Document

Hi Don,

Thank you for your email. By "removed all AA term variations from their account" do you mean that you have disabled them from buying AA terms?

Apologies, but I am also having difficulty locating Airlines.Buy-CheapTickets.com's landing page URL for the ads that were in the F&M doc. Could you send so I can review?

I just quickly looked at their homepage and they are still displaying our "More Room" logo -- which is false and/or misleading. We have not had "More Room Throughout Coach" for several years now.

Regards, Rebecca

From: Don Aydon [mailto:aydond@yahoo-inc.com]
Sent: Monday, August 20, 2007 5:18 PM
To: O'Reilly, Rebecca
Cc: Curry, Alice; McAlexander, Laura; Trademark Concern
Subject: RE: American Airlines Trademarks - F&M Document

Hi Rebecca,

We have received confirmation from **Airlines.Buy-CheapTickets.com** that the material in question has been removed from their site. We would like American Airlines to review the site and confirm back via email that you have reviewed **Airlines.Buy-CheapTickets.com** and that all of the "false and/or misleading" information has been removed. If it is still appearing, we will disable access to the site. As it stands now, our Content Quality team has removed all AA term variations from their account because their landing page no longer complies with the guideline.

Thanks,
Don

From: O'Reilly, Rebecca [mailto:Rebecca.O'Reilly@aa.com]
Sent: Wednesday, August 15, 2007 10:59 AM
To: Don Aydon
Cc: Curry, Alice; McAlexander, Laura
Subject: RE: American Airlines Trademarks - F&M Document

Thanks Don.

I just got back from almost a 2 week vacation in Alaska. I was well rested and then Alice ended that in a hurry -- ha ha ha! ☺ j/k Alice!

-Rebecca

From: Don Aydon [mailto:aydond@yahoo-inc.com]
Sent: Wednesday, August 15, 2007 10:56 AM
To: O'Reilly, Rebecca
Cc: Curry, Alice; McAlexander, Laura
Subject: RE: American Airlines Trademarks - F&M Document

Hi Rebecca,

Things are good -- just back from family vacation down in Corpus Christi and well rested! Have you taken any vacation time this summer?

I have submitted your F&M documentation to our Trademark team and will follow up with you when I hear back from them on the course of action that was taken.

Talk soon,
Don

Don Aydon | Strategic Account Director
Yahoo! Search Marketing
3131 McKinney Ave., Suite 500, Dallas, TX 75204
Tel: 214-754-1136 | Cell: 909-815-2100 | Fax: 214-754-1101
aydond@yahoo-inc.com | searchmarketing.yahoo.com

From: O'Reilly, Rebecca [mailto:Rebecca.O'Reilly@aa.com]
Sent: Tuesday, August 14, 2007 8:03 PM
To: Don Aydon
Cc: Curry, Alice; McAlexander, Laura
Subject: American Airlines Trademarks - F&M Document

Hi Don,

Hope you are doing well.

I've documented another example of false and misleading content in regards to American Airlines trademarks. Please refer to the following attachments:

- F&M Notification Requirements -- American Airlines 2007-08_14.doc
- Yahoo Screenshots -- American Airlines 2007-08_14.jpg
- Airlines.Buy-CheapTickets.com.jpg

Please review with the appropriate Yahoo! team(s) so we can resolve the F&M content issues.

Regards,
Rebecca

Rebecca O'Reilly
American Airlines
AA.com Interactive Marketing
Rebecca.OReilly@aa.com
817.931.9986

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EXHIBIT 21

no save date (document not saved) (2K)
[Document2]

F

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Stimuli 1

Q3_1 Book Cheap Ticketswww.globe-travels.com - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website?
[INTERVIEWER: RECORD CAREFULLY. LOOK AT EACH L

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	18	6.7	81.8	81.8
	2	2	.7	9.1	90.9
	4	2	.7	9.1	100.0
	Total	22	8.1	100.0	
Missing	System	248	91.9		
Total		270	100.0		

Q3_2 American AirlinesBookAirlineTickets.com - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website?
[INTERVIEWER: RECORD CAREFULLY. LOOK AT EACH L

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	35	13.0	76.1	76.1
	2	9	3.3	19.6	95.7
	3	1	.4	2.2	97.8
	4	1	.4	2.2	100.0
	Total	46	17.0	100.0	
Missing	System	224	83.0		
Total		270	100.0		

Q3_4 American Airlines Collectibleswww.ebay.com - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website?
[INTERVIEWER: RECORD CAREFULLY. LOOK AT EA

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	1	.4	33.3	33.3
	4	2	.7	66.7	100.0
	Total	3	1.1	100.0	
Missing	System	267	98.9		
Total		270	100.0		

Q3_6 American Airlines (NYSE: AMR)www.aa.com - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website?
[INTERVIEWER: RECORD CAREFULLY. LOOK AT EACH

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	149	55.2	88.2	88.2
	2	11	4.1	6.5	94.7
	3	4	1.5	2.4	97.0
	4	3	1.1	1.8	98.8
	6	2	.7	1.2	100.0
	Total	169	62.6	100.0	
Missing	System	101	37.4		
Total		270	100.0		

Q3_7 American Airlines

Reservationswww.aa.com/apps/reservations/ReservationsHome - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website? [INTERVIEWER

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	19	7.0	18.3	18.3
	2	73	27.0	70.2	88.5
	3	8	3.0	7.7	96.2
	5	1	.4	1.0	97.1
	7	2	.7	1.9	99.0
	9	1	.4	1.0	100.0
	Total	104	38.5	100.0	
Missing	System	166	61.5		
Total		270	100.0		

Q3_8 American Airlines Flight

Scheduleswww.aa.com/apps/reservations/ViewOneWay - I would now like to ask you a few questions about these results. Which link or links, if any, do you think would take you to an American Airlines company website?
[INTERVIEWER:

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	9	3.3	11.7	11.7
	2	17	6.3	22.1	33.8
	3	45	16.7	58.4	92.2
	4	4	1.5	5.2	97.4
	8	1	.4	1.3	98.7
	10	1	.4	1.3	100.0
	Total	77	28.5	100.0	
Missing	System	193	71.5		
Total		270	100.0		

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Q3_1

	RESPID	Q3_1 Book Cheap Ticketswww.globe-travels.com	Q5_1 Why do you think the link that starts with the phrase – [READ PHRASE FROM LINK] – would take you to an American Airlines company website? [INTERVIEWER: RECORD RESPONSE VERBATIM. DO NOT SUMMARIZE OR PARAPHRASE.] f("Q5_loop")
1	1428	1	because they want to know that it is not aa. com
2	1668	1	i think this link would take me to an american airlines company website because it is obvious that people must book their tickets here
3	1699	1	i think the link would take me to an american airlines website because since it is globe travels many people must get tickets from american airlines here
4	1003	4	i guess it wouldnt it would take you to globe-travels.com.
5	1208	1	its indicating about cheap tickets thats why i think so.
6	1458	4	Because it has the phrase American Airlines in it.
7	1094	1	Because it will show other airlines as well as american so if i chose that it will direct me to that website.
8	1355	2	because it is for traveling
9	1512	1	the reason why i would say book cheap tickets is because it will get you to the site quicker then going through the reservations
10	1646	1	i dont know
11	2023	1	american has really good airline ticket prices
12	872	1	it says cheap tickets
13	1031	1	because it says something about cheap tickets and it looks like a valid site
14	1283	1	it looks like a legit site
15	2011	1	it says to book tickets
16	672	1	because it has access to all airlines.
17	1314	1	like i said i typically trust online search engines like yahoo.
18	1332	2	because it looks like a website i could go on to save money for american airline tickets.
19	2535	1	because they can go through the AA website can get you tickets for cheaper
20	663	1	Cheap tickets you can book
21	679	1	because the title says its cheap
22	992	1	becuase it says to book tickets

H

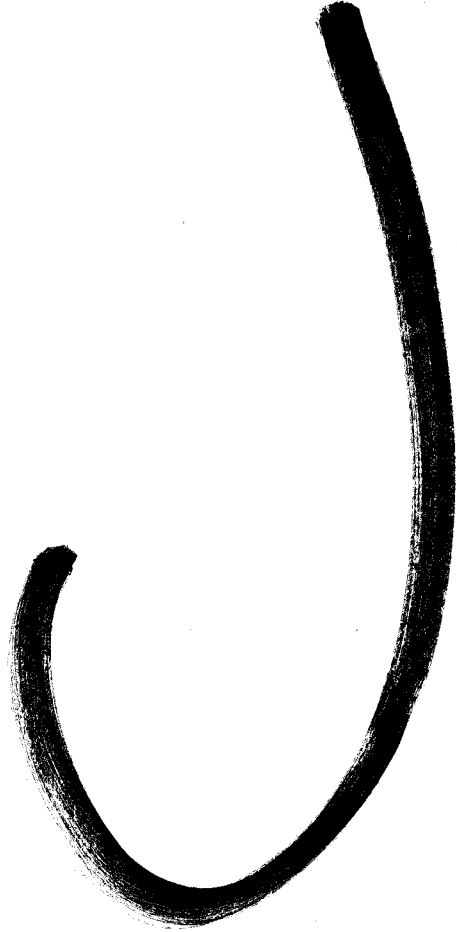
q4_3

	RESPID	Q4_3 Save 55% on American Airlines TicketsAirline. Buy-Cheap.Tickets.com	Q6_3 Why do you think American Airlines endorsed the link that starts with the phrase [READ PHRASE FROM LINK]? [INTERVIEWER: RECORD RESPONSE VERBATIM. DO NOT SUMMARIZE OR PARAPHRASE.] f("Q6_loop")
1	1098	1	because they also give you cheaper rates and good vacation spots.
2	2516	1	To get more passengers on.
3	646	1	If they need a website to advertise the specials and discounted rates on tickets they would use this link
4	968	1	this is where you can get cheap airline tickets.
5	1580	2	i think the link is endorsed by american airlines because in the website they sell airline tickets and american airlines is one of the most famous airlines
6	1644	1	If your looking for cheap tickets that where you would go
7	2440	2	american is one of the biggest airlines so they should have tickets for them here
8	1013	1	um because since the economy is bad american airlines wants to offer low price tickets to their customers.
9	1259	1	IOT WOULD BRING CUSTOMERS TO THEM BY OFFERING 55% SAVINGS ON TICKETS
10	1579	3	so people would save money when using american airlines
11	1584	2	they would want to endorse that they have cheap airline tickets
12	1748	1	they probably wanted people to know that they can get really good deals on air fare
13	1412	2	new things they got
14	2023	1	it has american airlines in the web engine
15	728	4	becasue they are selling fopr them and to do this they would have to know the flight times and things like that
16	807	3	they would have to for using there name
17	1122	3	i would not
18	684	1	because they said you can save 55% off of American Airlines
19	1990	1	because i can probly go here to get AA tickets for 55% off
20	1524	2	the more you buy, the more you save
21	1715	1	discounts on tickets
22	2666	3	so that people can find cheap tickets for them

I

q3_18

	RESPID	Q3_18 Book Cheap Ticketswww.globe-travels.com	Q5_18 Why do you think the link that starts with the phrase – [READ PHRASE FROM LINK] – would take you to an American Airlines company website? [INTERVIEWER: RECORD RESPONSE VERBATIM. DO NOT SUMMARIZE OR PARAPHRASE.] f("Q5 loop")
1	885	1	i dont think that it has anything to do with american airlines specifically but that its just tickets that i can get for cheap.
2	1088	1	because people are trying to find cheap tickets a round trip. So they can save money.
3	976	1	you can find american airline brands at this website for cheaper so that is why i think it starts with this because you can find american airline brands for cheaper in this website.
4	1221	2	because it says you can do it yourself
5	1485	1	i think it would take me to an american airlines company website because american airlines is a very famous airline
6	1569	1	i think the link would take me to an american airlines company because many people must travel book their ticket from american airlines here
7	1685	1	i think it will because it advertises for the company to get people to buy tickets
8	1012	1	Since I'm searching for the company airlines and i'm looking for American Airlines its obvious it's going to send me to cheap tickets with American Airlines.
9	1477	1	because you could get tickets for cheap
10	1469	2	cause it says do it yourself online booking, easy to use with low service. -p- nope
11	1553	3	i dont think that itll take me right up to the website, but i think that itll bring me to a screen with other airlines and maybe i can get tickets on there.
12	1093	2	because it talks about booking cheap tickets so it will take you to various airlines
13	687	12	says american airlines
14	1129	1	its the first link that pops up
15	1172	1	IT SAYS CHEAP TICKETS AND IVE BEEN TO IT BEFORE I BELIEVE
16	1922	2	because it has every airlines
17	1945	2	because it has every airline company in it
18	1976	1	because it says cheap
19	2575	1	i think it would take me to other options including american airlines



PEW / INTERNET

PEW INTERNET & AMERICAN LIFE PROJECT

Data Memo

BY: Senior Research Fellow Deborah Fallows
CONTACT: Associate Director Susannah Fox (202-419-4500)
RE: Search Engine Use
August 6, 2008

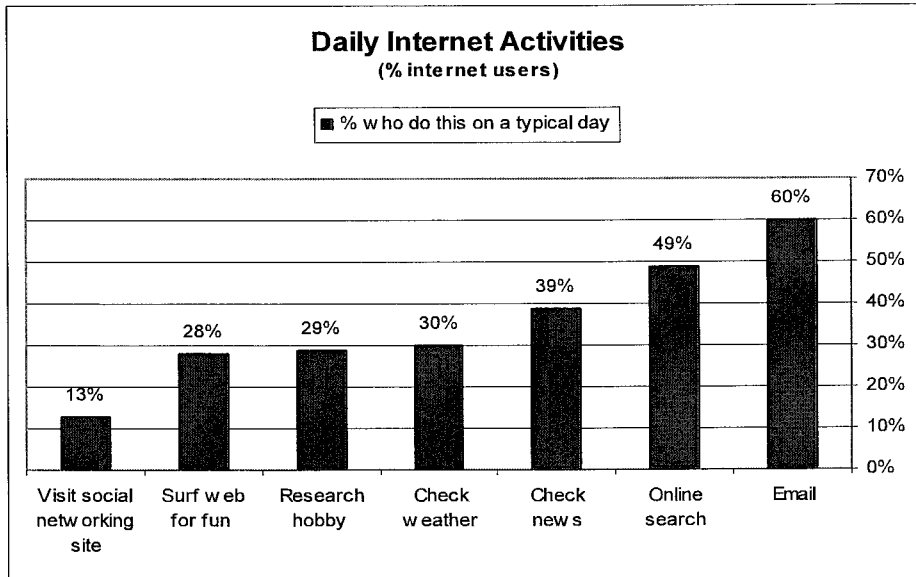
Almost half of all internet users now use search engines on a typical day

The percentage of internet users who use search engines on a typical day has been steadily rising from about one-third of all users in 2002, to a new high of just under one-half (49%).

With this increase, the number of those using a search engine on a typical day is pulling ever closer to the 60% of internet users who use email, arguably the internet's all-time killer app, on a typical day.¹ Underscoring the dramatic increase over time, the percentage of internet users who search on a typical day grew 69% from January 2002, when the Pew Internet & American Life Project first tracked this activity, to May 2008, when the current data were collected. During the same six-year time period, the use of email on a typical day rose from 52% to 60%, for a growth rate of just 15%.

These new figures propel search further out of the pack, well ahead of other popular internet activities, such as checking the news, which 39% of internet users do on a typical day, or checking the weather, which 30% do on a typical day.

¹ The most recent numbers for those who use email on a typical day comes from a PIP survey conducted December 2007.



This chart shows the percentage of internet users who did these activities "yesterday," which in a tracking survey like this one yields a picture of the "typical day" online. For most people the average day includes lots of emails (60% of internet users), general searches (49%), and news reading (39%) if they are online at all (30% of internet users are offline on a typical day).

WHO IS MAKING SEARCH A HABIT?

Those who are using search engines on an average day are more likely to be socially upscale, with at least some college education and incomes over \$50,000 per year. They are more likely to be internet users with at least six years of online experience and to have their homes wired for fast internet connections. Younger internet users are more likely than older users to search on a typical day. Men are more likely than women to search on a typical day.

Here are the numbers:

Education: Internet users with higher levels of education are more likely to use search on a typical day, with those having at least some college education significantly more likely to do so than those with less education. Here are the percentages:

College graduate +	66%
Some college	49%
High school graduate or less	32%

Income: Internet users living in higher-income households are more likely to use search on a typical day, with those having an income higher than \$50,000 per year being significantly more likely than those with lower incomes. Here are the percentages:²

\$75,000 +	62%
\$50,000 – 74,999	56%
\$30,000 – 49,999	34%
<\$30,000	36%

Broadband use: Those who use broadband connections at home are significantly more likely than those who use dial-up to have ever tried using search engines at all, by 94% to 80%. They are dramatically more likely to search on a typical day, and this difference persists when other factors, such as age and education, are held constant. These are the percentages according to type of internet connections for those who search on a typical day:

Broadband at home	58%
Dial-up at home	26%

Age: Younger internet users have been consistently more likely to search on a typical day over the last five years of survey research. Here are the percentages of searchers in different age groups who search on a typical day:

18 – 29 years	55%
30 – 49 years	54%
50 – 64 years	40%
65 years and older	27%

Gender: While just about equal numbers of men (91%) and women (88%) report having ever used search engines at all, men are significantly more likely than women to search on a typical day.

Men	53%
Women	45%

Data collected since 2002 show that men who use the internet have consistently been more likely than women to integrate search into their daily lives. The percentage of online men who search on a typical day has risen steadily from 33% in 2002 to 53% currently. The percentage of women has also risen, increasing from 25% in 2002 to 45%.

Data from past surveys also suggest that men have been more engaged with search in general.³ Online men say they have searched more frequently; they have expressed greater confidence in their search abilities (although women have reported being equally

² Twenty percent of respondents refused to answer or answered “don’t know” to the income question.

³ “Search Engine Users: Internet searchers are confident, satisfied and trusting – but they are also unaware and naïve” (Pew Internet & American Life Project, January 2005) Available at: http://www.pewinternet.org/PPF/r/146/report_display.asp

successful in getting satisfying search results). Men have also been more aware than women of some of the controversial issues surrounding search, e.g., the existence of paid v. unpaid search results, and the differences between the two.

WHY ARE MORE INTERNET USERS NOW INTEGRATING SEARCH INTO THEIR ONLINE ACTIVITY?

While the number of internet users who search on a typical day has been steadily rising, this is the second time since the Pew Internet Project began tracking search engine use that we have seen a demonstrable leap in the numbers. The first came in late 2005, when percentage of users searching on a typical day rose from about 30% (in June 2004) to about 40% (in September 2005). We speculated at that time about a few possible reasons behind the increase, pointing out that it was a time of much media coverage and buzz about search engine companies, including the Google IPO.⁴

Now, the percentage of users searching on a typical day has risen again, from about 40% to 49%. What has changed in the search world that might account for this increase?

One likely reason is that users can now expect to find a high-performing, site-specific search engine on just about every content-rich website that is worth its salt. With a growing mass of web content from blogs, news sites, image and video archives, personal websites, and more, internet users have an option to turn not only to the major search engines, but also to search engines on individual sites, as vehicles to reach the information they are looking for.

Another reason may be related to the fact that fully 55% of American homes have a high-speed internet connection.⁵ Of all the demographic variables we analyzed, the presence of a home broadband connection had the strongest relationship with a user's propensity to use a search engine on a typical day. Previous studies have shown that when a user upgrades to home broadband, she is more likely to turn to the internet first when she has a question – and now she is increasingly likely to visit a search engine to find the answer.

Finally, it may be that general search engine sites have become so useful and well tuned that people turn to them for an increasingly broad range of questions.

⁴ "Search engine use shoots up in the past year" (Pew Internet & American Life Project, November 2005) Available at: http://www.pewinternet.org/PPF/r/167/report_display.asp.

⁵ "Home Broadband 2008" (Pew Internet & American Life Project, July 2, 2008) Available at: http://www.pewinternet.org/PPF/r/257/report_display.asp

About the Pew Research Center's Internet & American Life Project

The Pew Research Center's Internet & American Life Project explores the impact of the internet on children, families, communities, the work place, schools, health care and civic/political life. The Pew Research Center is a nonprofit "fact tank" that provides information on the issues, attitudes and trends shaping America and the world. The Center and its projects are nonpartisan and take no position on policy issues. Support is provided by The Pew Charitable Trusts.

Survey questions

Spring Tracking Survey 2008

Final Topline

5/19/08

Data for April 8 – May 11, 2008

Princeton Survey Research Associates International
for the Pew Internet & American Life Project

Sample: n = 2,251 adults, age 18 and older
Interviewing dates: 04.08.08 – 05.11.08

Margin of error is plus or minus 2 percentage points for results based on total sample [n=2,251]
Margin of error is plus or minus 3 percentage points for results based on internet users [n=1,553]

- Q6a** Do you use the internet, at least occasionally?
- Q6b** Do you send or receive email, at least occasionally?⁶

	USES INTERNET	DOES NOT USE INTERNET
Current	73	27

- Q7** Did you happen to use the internet YESTERDAY?⁷

Based on internet users [N=1,553]

	YES, USED INTERNET YESTERDAY	NO, DID NOT USE INTERNET YESTERDAY	DON'T KNOW/ REFUSED
Current	70	30	1

⁶ Prior to January 2005, question wording was "Do you ever go online to access the Internet or World Wide Web or to send and receive email?"

⁷ Prior to January 2005, question wording was "Did you happen to go online or check your email yesterday?"

WEB1 Please tell me if you ever use the internet to do any of the following things. Do you ever use the internet to.../Did you happen to do this **yesterday**, or not?⁸

Based on internet users [N=1,553]

	TOTAL HAVE EVER DONE THIS	----- DID YESTERDAY	HAVE NOT DONE THIS	DON'T KNOW/ REFUSED
Use an online search engine to help you find information on the Web				
Current	89	49	10	*
December 2006	91	41	9	1
August 2006	88	42	11	*
Nov/Dec 2005	91	38	9	1
September 2005	90	41	9	*
May/June 2004	84	30	16	*
June 2003	89	31	10	1
Jan 2002	85	29	14	1

⁸ Prior to January 2005, question wording was "Please tell me if you ever do any of the following when you go online. Do you ever...?/Did you happen to do this yesterday, or not?"