

CTS

FILED
U.S. DISTRICT COURT
NORTHERN DIST. OF TX.
FT. WORTH DIVISION

ORIGINAL

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

2009 JUL 17 PM 4:00

CLERK OF COURT

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

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

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

Defendants.

**APPENDIX IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFF
AMERICAN AIRLINES, INC.'S MOTION TO COMPEL DISCOVERY**

EXHIBIT	DOCUMENT	PAGE
A	Letter to Frederick Brown from Daniel Muino, dated April 16, 2009	4
B	Letter to Frederick Brown from Daniel Muino, dated May 8, 2009	6
C	Letter to Frederick Brown from Daniel Muino, dated May 11, 2009	23
D	Letter to Lars Berg from Daniel Muino, dated May 18, 2009	25
E	Letter to Frederick Brown and Jason Stavers from Daniel Muino, dated June 16, 2009	56
F	Letter to Frederick Brown and Jason Stavers from Daniel Muino, dated June 18, 2009	61

G	Letter to Frederick Brown and Jason Stavers from Daniel Muino, dated June 29, 2009	65
H	Letter to D.A. Rodriguez from Lars Berg, dated May 21, 2009	67
I	Declaration of Carmen Arenal in Support of Defendants' Opposition to Plaintiff American Airlines, Inc.'s Motion to Compel Discovery, dated July 17, 2009	74

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

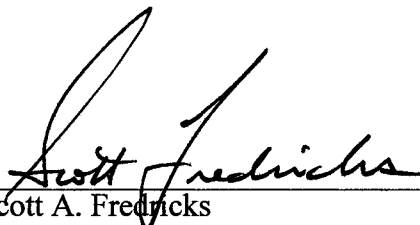
Frederick Brown
Jason Stavers
Gibson, Dunn & Crutcher LLP
One Montgomery Street, Suite 3100
San Francisco, CA 94104

Via FedEx

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

Via FedEx

Date: July 17, 2009



Scott A. Fredricks

A

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ORANGE COUNTY, SACRAMENTO,
WALNUT CREEK, CENTURY CITY
TOKYO, LONDON, BEIJING,
SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

April 16, 2009

Writer's Direct Contact
415.268.7475
DMuino@mofocom

By Hand Delivery

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

Re: *American Airlines, Inc. v. Yahoo!, Inc.*

Dear Fred:

Enclosed please find documents produced by Yahoo! bearing the Bates numbers YAH-AA 0000001 - 0000090. Yahoo! is producing these documents in response to (1) AA's information requests in connection with the settlement discussions between the parties, and (2) AA's first set of document requests. This set includes documents responsive to AA's Document Requests 1-9. These documents have been designated Confidential, Highly Confidential, or Highly Confidential - Outside Counsel Only pursuant to the Confidentiality Agreement being negotiated between the parties.

The spreadsheets Bates-labeled YAH-AA0000001 - 0000018 contain information on each sponsored advertisement displayed from September 22, 2007 to February 2009 that was (1) triggered by a keyword containing an AA trademark (specifically, the trademarks defined as "American Airlines Marks" in AA's first set of document requests), and (2) clicked on by a web user. The columns in these spreadsheets reflect the following information:

Column A: Identification number of each clicked advertisement.
Column B: Time stamp.
Column C: Date.
Column D: Account ID for the advertiser.
Column E: URL of website where advertisement was displayed and from where click was received.
Column F: Creative ID identifying the particular advertisement that was displayed.
Column G: Match type - exact or advanced match.
Column H: Keyword entered in search box by web user.
Column I: Keyword served (keyword that triggered the advertisement).

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Frederick Brown, Esq.
April 16, 2009
Page Two

Column J: Price per click (fraction of a dollar). Note that these prices reflect gross revenues per click, not profits per click.

The spreadsheet Bates-labeled YAH-AA 0000020 contains a list of advertiser names for each Account ID listed in the spreadsheets YAH-AA0000001 - 0000018.

The spreadsheet Bates-labeled YAH-AA 0000019 contains a compilation of the advertisements for each Creative ID listed in the spreadsheets YAH-AA0000001 - 0000018. The columns in this spreadsheet reflect the following information:

Column A: Month during which the advertisement ("creative") appeared.
Column B: Creative ID.
Column C: File name of creative.
Column D: Title of the creative displayed.
Columns E and F: Text of the creative displayed. Column F shows the default text. Column E is only displayed if Column F is blank.
Column G: URL displayed at the bottom of the creative.

Yahoo! is working on compiling the same set of data for the period January 2004 to September 21, 2007 and anticipates producing spreadsheets containing that information the week of April 20. The data for this earlier time period required additional efforts to assemble.

The documents Bates-labeled YAH-AA0000077 - 0000090 contain information responsive to AA's Document Requests 1-7. Please note that the information in these documents was assembled for purposes of this litigation, since Yahoo! does not maintain organizational charts in the ordinary course of its business.

Yahoo! will produce additional responsive documents on a rolling basis.

Sincerely,



Daniel P. Muino

Enclosures

cc: Howard Hogan, Esq.
Jason Stavers, Esq.
Dee J. Kelly, Jr., Esq.

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WALNUT CREEK, CENTURY CITY
TOKYO, LONDON, BEIJING,
SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

May 8, 2009

Writer's Direct Contact
415.268.7475
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By Hand Delivery

Frederick Brown, Esq.
Gibson, Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, California

Re: *American Airlines, Inc. v. Yahoo!, Inc.*

Dear Fred:

Enclosed please find documents produced by Yahoo! bearing Bates numbers YAH-AA 0006988 to YAH-AA 0019634.

The spreadsheets Bates-labeled YAH-AA 0008152 to YAH-AA 0008173 contain information regarding sponsored advertisements displayed from October 2005 to March 2007 that were (1) triggered by a keyword containing an AA trademark, and (2) clicked on by a web user. My letter of April 16, 2009 described the type of data that is contained in each of the columns of these spreadsheets.

Yahoo! is working to compile the same set of data for the periods January 2004 to September 2005 and April 2007 to September 21, 2007.

Also included in this production are e-mails and other documents collected from a number of Yahoo! custodians. Yahoo! will continue to produce additional responsive documents on a rolling basis.

As I indicated during last week's meet-and-confer call, Yahoo! is willing to share with AA the search terms being used to extract responsive documents from the e-mails and other materials collected from the Yahoo! custodians (both from their laptops and shared drive locations). Enclosed herewith is a list of those search terms for each custodian. Our document vendor is in the process of running these search terms through the materials collected from the listed custodians. As we collect documents from additional custodians, we will update this list. We have also identified a number of hard drive and shared drive folders the contents of which are wholly responsive to AA's document requests and which we will produce in their entirety, subject only to a privilege screen. We request that AA

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Frederick Brown, Esq.
May 8, 2009
Page Two

reciprocally provide the search terms that AA is using to gather documents in response to Yahoo!'s document requests.

Sincerely,

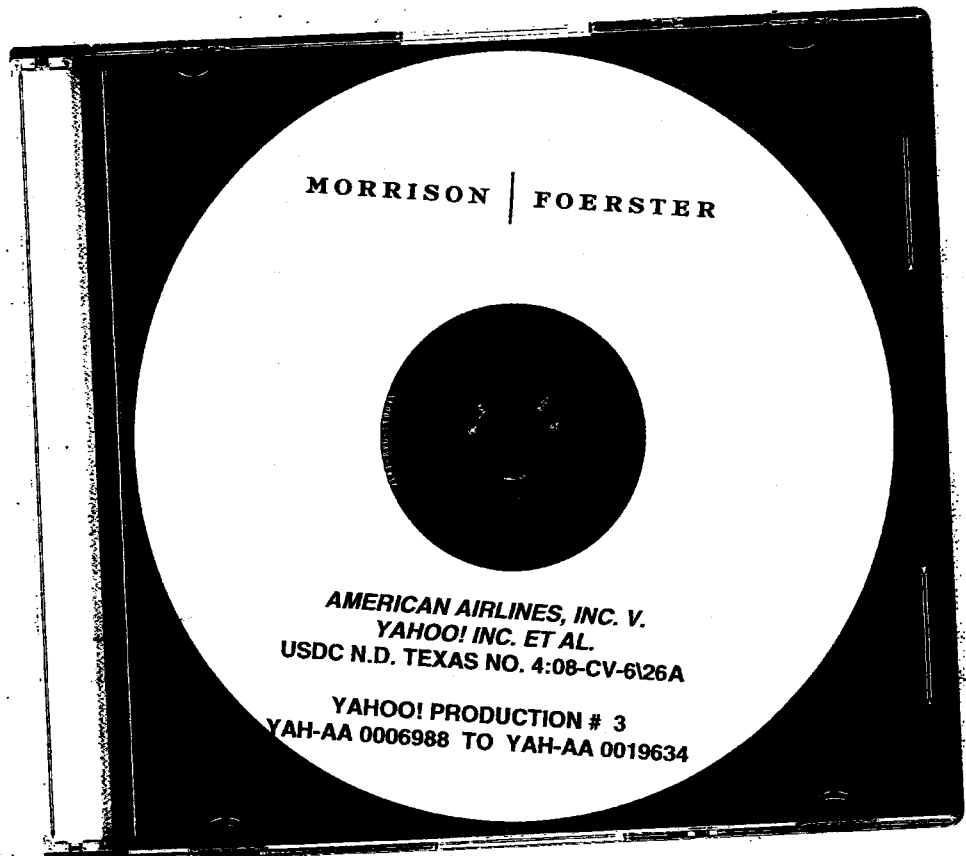


Daniel P. Muino

Enclosures

cc: Howard Hogan, Esq. (with CD)
Jason Stavers, Esq.
Dee J. Kelly, Jr., Esq. (with CD)

sf-2683427



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AMERICAN AIRLINES, INC. V.
YAHOO! INC. ET AL.
USDC N.D. TEXAS NO. 4:08-CV-6126A
YAHOO! PRODUCTION # 3
YAH-AA 0006988 TO YAH-AA 0019634

AA v. Yahoo!

Search Terms by Custodian
May 8, 2009

Custodian	Director Ad Policy	Search Terms
John Cathey-Roberts		American AmericanAirlines AA A A Aadvantage AA.com Admirals Club survey test keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match brand branded trademark policy rich ads RAIS conquesting Lowfares Globe Travels AirGorilla

sf-2685453

		Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel TravelSearch Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta United Continental Jet Blue Southwest U.S. Airways Alaska Virgin Northwest AirTran Frontier Hawaiian airline airlines
Michael Wehn	Senior Manager Ad Quality Operations	Same.
Jason Dorn	Senior Director Exchange	Same.

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	Operations	
Carmen Arenal	Director of Legal Services	Same.
Cheryl Dartt	Senior Director Marketplace Operations	American AmericanAirlines AA A A Aadvantage AA.com Admirals Club survey test relevance metric bucket eye tracking north east bolding keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match fav icon brand branded trademark rich ads RAIS conquesting

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John Slade	Vice President Display Revenue and Apex Product Management	airline airlines American Airlines AA A A Aadvantage AA.com Admirals Club keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match brand branded trademark rich ads RAIS conquesting airline airlines
Shaowkat Kabbara	Senior Product Manager	Same.
Graham Harris	Director Product Management	Same.
Christopher Sanger	Director Product Management	Same.

Dean Quan	Product Manager, SPM, APT, Creative Management	Same.
Tina Krueger	Senior Director Product Management	Same.
Patrick Peters	Product Specialist, Emerging Markets in the Mobile Group	American AmericanAirlines AA A A Aadvantage AA.com Admirals Club keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match brand branded trademark Lowfares GlobeTravels AirGorilla Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel TravelSearch

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		<p>Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta United Continental Jet Blue Southwest U.S. Airways Alaska Virgin Northwest AirTran Frontier Hawaiian airline airlines</p>
Karla Rowland	Account Manager	Same.
Jim Stothard	Vice President Account Management and Sales Development	<p>American American Airlines AA A A Aadvantage AA.com Admirals Club keyword inclusion</p>

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		keyword suggestion keyword selection search term suggestion keyword research advanced match brand branded trademark rich ads RAIS Lowfares GlobeTravels AirGorilla Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel TravelSearch Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta United Continental Jet Blue Southwest U.S. Airways
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		Alaska Virgin Northwest AirTran Frontier Hawaiian airline airlines
Keith Slusser	Senior Account Manager	Same.
Michael McMeekin	Senior Account Manager	Same.
Allison Soled	Manager Creative Strategy	Same.
Allan Chuate	Senior Manager Account Management	Same.
Brian Kearns	Account Lead	Same.
David Marquez	Senior Account Manager	Same.
Kelly Donovan	Account Executive	Same.
Christopher Kemple	Senior Director Account Management	American AmericanAirlines AA

A A	Aadvantage AA.com Admirals Club keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match brand branded trademark rich ads RAIS Lowfares Globe Travels AirGorilla Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel TravelSearch Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta

		United Continental Jet Blue Southwest U.S. Airways Alaska Virgin Northwest AirTran Frontier Hawaiian airline airlines
Kelly Graziadei	Network Partner Services	Same.
Max Steelman	National Account Director	Same.
Peter Hagerty	Senior Director Strategic Sales	Same.
Tim Wasemiller	Media Sales	Same.
Sothea Keo	Account Manager	Same.
Patrizio Spagnoletto	Senior Director Marketing, YSM	American Airlines AA AA

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	<p>Aadvantage AA.com Admirals Club survey test relevance metric bucket eye tracking north east bolding keyword inclusion keyword suggestion keyword selection search term suggestion keyword research advanced match fav icon brand branded trademark rich ads RAIS conquesting Lowfares Globe Travels AirGorilla Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel</p>		
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		TravelSearch Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta United Continental Jet Blue Southwest U.S. Airways Alaska Virgin Northwest AirTran Frontier Hawaiian airline airlines
Malin Kennedy	Senior Manager Advertiser Experience	Same.
Hui Tam	Director of Partner Management Group	American American Airlines AA A A Aadantage AA.com

		Admirals Club domain match brand branded trademark rich ads RAIS Lowfares GlobeTravels AirGorilla Smarter Travel Compareairlineprices Airlines.world.com CompareAirlineFlights SideStep NetTravel TravelSearch Expedia Travelocity Hotwire Booking Buddy Kayak Priceline Orbitz Delta United Continental Jet Blue Southwest U.S. Airways Alaska Virgin Northwest
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	AirTran Frontier Hawaiian airline airlines	
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sf-2683453

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C

May 11, 2009

Writer's Direct Contact
415.268.7475
DMuino@mofocom

Via E-mail

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

Re: *American Airlines, Inc. v. Yahoo!, Inc.*

Dear Fred:

I am writing to supplement our list of the Yahoo! employees who have received litigation hold notices in connection with this case. Below is the complete list, to date:

November 13, 2008: Jared Luskin, Ashish Bhatnagar, Jesse Harris, Carmen Arenal, Debra Carrete, Jill Peterson, Cheryl Dartt, Jason Dorn, Kim Furzer, John Cathey-Roberts; Pierre Reme; Michael Wehn, Charity Rieck, Vinod Sankar, Karthik Ramachandran, Tina Krueger, Dean Quan, Christopher Sanger, Mike Dillon, Don Aydon, Dylan Johnson, Gita Bhatia, Javier Bustamante, Jim Stothard, Karla Rowland, Keith Slusser, Kelly Graziadei, Malin Kennedy, Max R. Steelman, Michael McMeekin, Natalie Kubitz, Peter Hagerty, Sothea Keo, Tim Wasemiller, Veronica Gutierrez, Allan Chuate, Allison Soled, Andrew Kim, Bradley King, Brian Kearns, Christopher Kemple, Christy Cormier, David Marquez, Lodema Ronchetti, Sheri L. Bautista Abbott, Daniel Hernandez, Kimberly Ann Buchanan, John B. Sherwood, Timothy P. Jankowski, Ronald A. Mieczkowski, Stefania Bauer, Jennifer Jang, Mary Villano, Karen Horie, Hortensia Lopez-Nakano, Jeremy Feig, Steven Saldana, Leslie Friedlander, Mei-Lynn Destouche, Jon Rosenberg, Alinne Khalili, Erin Banks, Jayne Elliott, Brady Pak, Lisa Lovio, Sanie Mikaelian, Nikki Pinion, Alissa Rittenhouse, Eddie Rivera, Brenda Pollreis; Jun Zhang, Richard Mannino, Robert O'Keefe, Amber Andrews, Suzanne Cugley, David Salper, Matthew Capuano, Julie Smith, Mary Edwards, Kara Hidden.

April 8, 2009: Reggie Davis, Patrizio Spagnoletto, John Slade, Wendi Sturgis, Mark Liao, Ivan Markman.

April 10, 2009: Hui L. Tam, Carmen Palmer.

April 13, 2009: Shaowkat Kabbara, Graham Harris.

Frederick Brown, Esq.
May 11, 2009
Page Two

April 17, 2009: Kelly Donovan, Patrick Peters.

April 23, 2009: Matt Lillig, Catherine Cameron, Tricia Hoff.

May 5, 2009: Jennifer Fernandez, Stacy Davis, Ann Aman, Peter Cornell, Michael Kane, Yuri Kavka, Jeffrey Seward, Lindell Bennett, Carrie Lippis.

May 8, 2009: Nitin Kumar, Bill Watkins, Sarah Cole, David Julian, Denise Miller, David Lake.

We request that AA reciprocally provide a list of the AA employees who have received litigation hold notices in connection with the present litigation.

Thank you.

Sincerely,

/s/ Daniel P. Muino

Daniel P. Muino

cc: Howard Hogan, Esq.
Jason Stavers, Esq.
Dee J. Kelly, Jr., Esq.