

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

HEARTBRAND BEEF, INC.

Plaintiff,

vs.

LOBEL'S OF NEW YORK, LLC,  
WORLDWIDE MEDIA, INC. THOUGHT  
CONVERGENCE, INC. and YAHOO! INC.  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 6:08-cv-00062

**JOINT MOTION TO DISMISS**  
**DEFENDANT, WORLDWIDE MEDIA, INC. WITH PREJUDICE**


Plaintiff, Heartbrand Beef, Inc. (“Heartbrand”) and Defendant, Worldwide Media, Inc. (“Worldwide”) hereby jointly file this “Joint Motion to Dismiss Defendant, Worldwide Media, Inc. With Prejudice”, and jointly state the following:

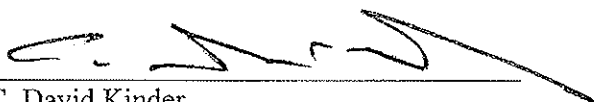
1. Heartbrand and Worldwide have resolved the differences and disputes between them with regard to the above-styled and numbered cause.
2. The resolution of the differences between Heartbrand and Worldwide are memorialized in a Confidential Settlement Agreement.
3. Pursuant to the terms of the Confidential Settlement Agreement, Heartbrand and Worldwide jointly move the Court to dismiss Worldwide from this lawsuit with prejudice.
4. Currently pending before the Court is “Worldwide Media, Inc.’s Motion to Dismiss Amended Complaint for Personal Jurisdiction Pursuant to Fed. R. Civ. P. 12(b)(2); or In The Alternative, Motion to Dismiss Amended Complaint for Improper Venue Pursuant to Fed. R. Civ. P. 12(b)(3); or In The Alternative, Motion to Transfer Venue Pursuant to 28 U.S.C. § 1406(a)” (Docket No. 27) and Memorandum in Support Thereof (Docket No. 28). Because Heartbrand and Worldwide have resolved the differences and disputes between them,

Worldwide's Motion to Dismiss should be denied as moot simultaneously with the dismissal of Worldwide from this lawsuit.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Heartbrand Beef, Inc. and Defendant, Worldwide Media, Inc. pray that this Court dismiss Defendant Worldwide Media, Inc. with prejudice, from this lawsuit and deny Defendant Worldwide Media, Inc.'s pending Motion to Dismiss (Docket No. 27) as moot.

Respectfully submitted,

By:   
\_\_\_\_\_  
Ted D. Lee  
State Bar No. 12137700  
GUNN & LEE, P.C.  
700 North St. Mary's St., Suite 1500  
San Antonio, Texas 78205  
(210) 886-9500 Telephone  
(210) 886-9883 Facsimile  
COUNSEL FOR PLAINTIFF  
HEARTBRAND BEEF, INC.

By:   
\_\_\_\_\_  
C. David Kinder  
Texas State Bar No. 11432550  
Cox Smith Matthews Incorporated  
112 E. Pecan Street, Suite 1800  
San Antonio, Texas 78205  
(210) 554-5500 (Telephone)  
(210) 226-8395 (Telefax)  
COUNSEL FOR DEFENDANT  
WORLDWIDE MEDIA, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of November, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Annalyn G. Smith  
Bracewell & Giuliani, LLP  
106 S. St. Mary's Street, Suite 800  
San Antonio, TX 78205

**Defendant Yahoo! Inc.**

David S. Fleming  
Howard S. Michael  
Brinks Hofer Gilson & Lione  
455 N. City Front Plz. Dr.  
Chicago, IL 60611

**Defendant Yahoo! Inc.**

George A. Yuhas  
Orrick, Herrington & Sutcliffe LLP  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105

**Defendant Thought Convergence, Inc.**

Randolph Wolfe  
Foley & Lardner LLP  
100 North Tampa Street  
San Francisco, CA 94105

**Defendant Worldwide Media, Inc.**

Gregg S. Baker  
New York State Bar No. 2223196  
Corrigan & Baker, LLC  
1311 Mamaroneck Avenue, Suite 215  
White Plains, New York 10605

**Defendant Lobel's Of New York, LLC**

/s/ Ted D. Lee \_\_\_\_\_