

Hon. Marsha J. Pechman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

INTERVAL LICENSING LLC,

Plaintiff,

v.

AOL, INC., et al.,

Defendants.

No. 2:10-CV-01385-MJP

APPLE INC.'S NOTICE REGARDING
MOTION TO DISMISS OR SEVER

Scheduled for Hearing:
April 25, 2011, at 4:00pm

Defendant Apple Inc. (“Apple”) joins in the Renewed Motion to Dismiss or Sever for Misjoinder (Dkt. No. 193) filed by defendant Yahoo! Inc. (“Yahoo”). Apple previously filed a Motion to Dismiss or Sever (Dkt. No. 81). On December 13, 2010, the Court reserved ruling on Apple’s Motion to Dismiss or Sever and other similar motions. (Order Memorializing Scheduling Conference (Dkt. No. 149) ¶ 3.) Apple respectfully requests that the Court dismiss or sever it from the above-captioned action for the reasons set forth in its original motion, in Google’s original Motion to Dismiss or Sever (Dkt. No. 63), and in the renewed motion recently filed by Yahoo!

Because the prior motions and Yahoo!’s renewed motion, in which Apple now joins, have been fully briefed and because the Court has scheduled oral argument on Yahoo!’s renewed motion and the Renewed Motion to Sever or Dismiss filed by eBay,

1 Netflix, Office Depot, and Staples (Dkt. No. 192), Apple requests that its joinder in
2 Yahoo!'s renewed motion be considered along with the other motions to dismiss or sever.
3 In filing this notice Apple understands that the Court has granted defendants twenty minutes
4 total for argument at the April 25, 2011 hearing. Apple does not request additional time,
5 and will instead coordinate with the other defendants on how to use the allotted time.

6 The undersigned counsel for Apple met and conferred telephonically with counsel
7 for Plaintiff on April 8, 2011, and, subject to the Court's approval, Plaintiff's counsel has
8 consented to Apple's filing of this notice joining Yahoo!'s renewed motion and Apple's
9 request for oral argument on April 25, 2011.

10
11 DATED: April 8, 2011.

O'MELVENY & MYERS LLP

12 By: /s/ Brian M. Berliner

Brian M. Berliner, CA Bar No. 156732 (*pro hac vice*)

13 Neil L. Yang, CA Bar No. 262719 (*pro hac vice*)

14 400 South Hope Street

Los Angeles, CA 90071

15 Telephone: 213.430.6000

Facsimile: 213.430.6407

16 Email: bberliner@omm.com; nyang@omm.com

17 George A. Riley, CA Bar No. 118304 (*pro hac vice*)

David S. Almeling, CA Bar No. 235449 (*pro hac vice*)

18 Two Embarcadero Center, 28th Floor

San Francisco, CA 94111-3823

19 Telephone: 415.984.8700

Facsimile: 415.984.8701

20 Email: griley@omm.com; dalmeling@omm.com

21 YARMUTH WILSDON CALFO PLLC

22 By: /s/ Jeremy E. Roller

23 Scott T. Wilsdon, WSBA No. 20608

Jeremy E. Roller, WSBA No. 32021

24 818 Stewart Street, Suite 1400

Seattle, WA 98101

25 Telephone: 206.516.3800

Facsimile: 206.516.3888

26 Email: wilsdon@yarmuth.com; jroller@yarmuth.com

Attorneys for Defendant Apple Inc.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this date, I electronically filed the foregoing document with
3 the Clerk of the Court using the CM/ECF system which will send notification of such filing
4 to:

5 **Attorney for Plaintiff**

6 Max L. Tribble
7 Email: mtribble@susmangodfrey.com

5 **Attorneys for Plaintiff**

6 Justin A. Nelson
7 Email: jnelson@susmangodfrey.com

8 **Attorney for Plaintiff**

9 Matthew R. Berry
10 Email: mberry@susmangodfrey.com

8 **Attorney for Plaintiff**

9 Eric J. Enger
10 Email: eenger@hpcllp.com

11 **Attorney for Plaintiff**

12 Michael F. Heim
13 Email: mheim@hpcllp.com

11 **Attorney for Plaintiff**

12 Nathan J. Davis
13 Email: ndavis@hpcllp.com

14 **Attorney for Plaintiff**

15 Edgar Sargent
16 Email: esargent@susmangodfrey.com

14 **Attorney for AOL**

15 Cortney S. Alexander
16 Email: cortney.alexander@finnegan.com

17 **Attorney for AOL**

18 Robert L. Burns
19 Email: robert.burns@finnegan.com

17 **Attorney for AOL**

18 Elliot C. Cook
19 Email: elliot.cook@finnegan.com

20 **Attorney for AOL**

21 Gerald F. Ivey
22 Email: gerald.ivey@finnegan.com

20 **Attorney for AOL**

21 Molly A. Terwilliger
22 Email: mollyt@summitlaw.com

23 **Attorney for eBay, Netflix, Office Depot,
& Staples**

24 J. Christopher Caraway
25 Email: chris.caraway@klarquist.com

23 **Attorney for eBay, Netflix, Office Depot
& Staples**

24 Kristin L. Cleveland
25 Email: kristin.cleveland@klarquist.com

26 **Attorney for eBay, Netflix, Office Depot
& Staples**

Klaus H. Hamm
Email: klaus.hamm@klarquist.com

26 **Attorney for eBay, Netflix, Office Depot,
& Staples**

Arthur W. Harrigan, Jr.
Email: arthurh@dhl.com

1 **Attorney for eBay, Netflix, Office Depot**
2 **& Staples**

3 Jeffrey S. Love
4 Email: jeffrey.love@klarquist.com

5 **Attorney for eBay, Netflix, Office Depot,**
6 **& Staples**

7 John D. Vandenberg
8 Email: john.vandenberg@klarquist.com

9 **Attorney for Facebook**

10 Christopher B. Durbin
11 Email: cdurbin@cooley.com

12 **Attorney for Facebook**

13 Heidi L. Keefe
14 Email: hkeefe@cooley.com

15 **Attorney for Facebook**

16 Elizabeth L. Stameshkin
17 Email: lstameshkin@cooley.com

18 **Attorney for Google & YouTube**

19 Aaron Chase
20 Email: aaron.chase@whitecase.com

21 **Attorney for Google & YouTube**

22 Dimitrios T. Drivas
23 Email: ddrivas@whitecase.com

24 **Attorney for Google & YouTube**

25 Warren S. Heit
26 Email: wheat@whitecase.com

Attorney for Google & YouTube

Shannon M. Jost
Email: Shannon.jost@stokeslaw.com

Attorney for Google & YouTube

Wendi R. Schepler
Email: wschepler@whitecase.com

Attorney for eBay, Netflix, Office Depot
& Staples

Derrick W. Toddy
Email: derrick.toddy@klarquist.com

Attorney for eBay, Netflix, Office Depot,
& Staples

Christopher T. Wion
Email: chrisw@dhl.com

Attorney for Facebook

Sudhir Pala
Email: spala@cooley.com

Attorney for Facebook

Michael G. Rhodes
Email: mrhodes@cooley.com

Attorney for Facebook

Mark R. Weinstein
Email: mweinstein@cooley.com

Attorney for Google & YouTube

Theresa Hsin-Yi Wang
Email: Theresa.Wang@stokeslaw.com

Attorney for Google & YouTube

John Handy
Email: jhandy@whitecase.com

Attorney for Google & YouTube

Scott A. W. Johnson
Email: sawj@stokeslaw.com

Attorney for Google & YouTube

Kevin X. McGann
Email: kmcgann@whitecase.com

Attorney for Office Max

Kevin Carl Baumgardner
Email: kbaumgardner@corrchronin.com

1 **Attorney for Office Max**

2 Steven Fogg
3 Email: sfogg@corrchronin.com

Attorney for OfficeMax

John S. Letchinger
Email: letchinger@wildman.com

4 **Attorney for OfficeMax**

5 Jeffrey D. Neumeyer
6 Email: jeffneumeyer@officemax.com

Attorney for Officemax

Douglas S. Rupert
Email: rupert@wildman.com

7 **Attorney for Yahoo!**

8 Francis Ho
9 Email: fho@mofo.com

Attorney for Yahoo!

Richard S. J. Hung
Email: rhung@mofo.com

10 **Attorney for Yahoo!**

11 Michael A. Jacobs
12 Email: mjacobs@mofo.com

Attorney for Yahoo!

Matthew I. Kreeger
Email: mkreeger@mofo.com

13 **Attorney for Yahoo!**

14 Dario A. Machleidt
15 Email: dmachleidt@flhlaw.com

Attorney for Yahoo!

Eric W. Ow
Email: eow@mofo.com

16 **Attorney for Yahoo!**

17 Mark P. Walters
18 Email: mwalters@flhlaw.com

19 I declare under penalty of perjury under the laws of the State of Washington that the
20 foregoing is true and correct.

21 Dated this 8th day of April, 2011 at Seattle, Washington.

22 s/ *Shelley Meyer*

23 _____
24 Shelley Meyer
25 Legal Assistant

26 SF1:818542.1