

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
27

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INTERVAL LICENSING LLC,

Plaintiff,

v.

AOL, INC.,

Defendant.

Case No. 2:10-cv-01385-MJP

**JOINT STATUS REPORT
REQUESTING ALTERATIONS TO
SCHEDULE**

INTERVAL LICENSING LLC,

Plaintiff,

v.

APPLE, INC.,

Defendant.

CASE NO. C11-708-MJP

LEAD CASE NO. C10-1385-MJP

INTERVAL LICENSING LLC,

Plaintiff,

v.

EBAY INC.,

Defendant.

CASE NO. C11-709-MJP

LEAD CASE NO. C10-1385-MJP

JOINT STATUS REPORT
(2:10-cv-01385-MJP – LEAD CASE)

KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, OR 97204
Tel: (503) 595-5300; Fax: (503) 595-5301

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
27

INTERVAL LICENSING LLC,
Plaintiff,
v.
FACEBOOK, INC.,
Defendant.

CASE NO. C11-710-MJP
LEAD CASE NO. C10-1385-MJP

INTERVAL LICENSING LLC,
Plaintiff,
v.
GOOGLE, INC.,
Defendant.

CASE NO. C11-711-MJP
LEAD CASE NO. C10-1385-MJP

INTERVAL LICENSING LLC,
Plaintiff,
v.
NETFLIX, INC.,
Defendant.

CASE NO. C11-712-MJP
LEAD CASE NO. C10-1385-MJP

INTERVAL LICENSING LLC,
Plaintiff,
v.
OFFICE DEPOT, INC.,
Defendant.

CASE NO. C11-713-MJP
LEAD CASE NO. C10-1385-MJP

1 INTERVAL LICENSING LLC,

2 Plaintiff,

3 v.

4 OFFICEMAX, INC.,

5 Defendant.

CASE NO. C11-714-MJP

LEAD CASE NO. C10-1385-MJP

7 INTERVAL LICENSING LLC,

8 Plaintiff,

9 v.

10 STAPLES, INC.,

11 Defendant.

CASE NO. C11-715-MJP

LEAD CASE NO. C10-1385-MJP

13 INTERVAL LICENSING LLC,

14 Plaintiff,

15 v.

16 YAHOO! INC.,

17 Defendant.

CASE NO. C11-716-MJP

LEAD CASE NO. C10-1385-MJP

19 INTERVAL LICENSING LLC,

20 Plaintiff,

21 v.

22 YOUTUBE, INC.,

23 Defendant.

CASE NO. C11-717-MJP

LEAD CASE NO. C10-1385-MJP

1 The Court’s Order of April 29, 2011 Granting Severance and Consolidating Cases [Dkt.
2 No. 229] granted defendants’ motions for severance but consolidated the eleven actions for all
3 pretrial proceedings and for trial. The Court also ordered that the current scheduling order in this
4 case (C10-1385-MJP, Dkt. No. 178) will govern all eleven actions, but instructed the parties to
5 meet and confer and file a joint status report as to what dates in the current scheduling order need
6 to be amended or altered. The parties have conferred and agreed that certain dates should be
7 adjusted, and have set forth proposed amendments to the existing scheduling order.

8 There are two categories of adjustments proposed.

9 First, the date for opening expert reports falls on the Monday after the Thanksgiving
10 holiday. In view of the holiday, the parties request a one week adjustment of that date, as well as
11 adjustments to the related expert dates. These adjustments do not change any other dates.

12 Second, the Order of April 29, 2011, consolidated the actions for all purposes including
13 trial, but noted that “[t]he Court does not make any binding determination as to how it will run
14 the trials in this matter. That issue will be decided later.” Defendants each continue to object to
15 consolidation for trial, and Interval continues to believe that consolidation for trial is appropriate.

16 The parties propose that issues relating to the structure of trial proceedings be addressed
17 at the scheduled January 13, 2012 Status Conference, but the parties disagree on whether the
18 existing trial dates should remain on the calendar in the interim.

19 Interval requests that all dates in the Scheduling Order, including the trial dates, remain in
20 effect to preserve the trials on the Court’s docket, which are currently scheduled in June and July
21 2012. Removing the trial dates from the calendar would significantly increase the risk of
22 delaying the trials, which would likely lead to increased costs for the parties and more work for
23 the Court. The parties would meet and confer in advance of the January 13, 2012 Status
24 Conference and submit a joint status report with suggested trial procedures by January 6, 2012.

25 Defendants request that the current dates for the for the Pretrial Order, the Pretrial
26 Conferences, Trial Briefs, Voir Dire Questions, Proposed Jury Instructions, and Trial Exhibit
27

Lists, and Trials be removed from the current schedule. The parties would meet and confer in advance of the January 13, 2012 conference, and submit a joint status report with suggested trial procedures and proposed dates for these deadlines by January 6, 2012.

Suggested Adjusted Deadlines

Event	Scheduled Date	Suggested Adjusted Date
Opening Expert Reports on all issues	11/28/2011	12/05/2011
Rebuttal Expert Reports Due	12/30/2011	01/06/2012
Complete all Expert Discovery	01/13/2012	01/25/2012
Joint Status Report to address trial issues		01/06/2012

DATED this 16th day of May, 2011.

/s/ Matthew R. Berry (with permission)

Justin A. Nelson, WSBA No. 31864
 jnelson@susmangodfrey.com
 Matthew R. Berry, WSBA No. 37364
 mberry@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1201 Third Avenue, Suite 3800
 Seattle, Washington 98101
 Tel: (206) 516-3880

Max L. Tribble, Jr. (*pro hac vice*)
 mtribble@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1000 Louisiana Street, Suite 5100
 Houston, Texas 77002
 Tel: (713) 651-9366

Oleg Elkhunovich (*pro hac vice*)
 oelkhunovich@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1901 Avenue of the Stars, Suite 950
 Los Angeles, California 90067
 Tel: (310) 789-3900

Michael F. Heim (*pro hac vice*)
 mheim@hpcllp.com
 Eric J. Enger (*pro hac vice*)
 eenger@hpcllp.com
 Nathan J. Davis (*pro hac vice*)
 ndavis@hpcllp.com
 HEIM, PAYNE & CHORUSH, L.L.P.
 600 Travis, Suite 6710
 Houston, Texas 77002
 Tel: (713) 221-2000

Douglas R. Wilson
 dwilson@hpcllp.com
 HEIM, PAYNE & CHORUSH, L.L.P.
 9442 Capital of Texas Highway North
 Plaza 1, Suite 500-146
 Austin, Texas 78759
 Tel: (512) 343-3622

Attorneys for Plaintiff Interval Licensing LLC

1 /s/ Cortney S. Alexander (with permission)
2 Gerald F. Ivey (*pro hac vice*)
gerald.ivey@finnegan.com
3 Robert L. Burns (*pro hac vice*)
robert.burns@finnegan.com
4 Elliot C. Cook (*pro hac vice*)
elliott.cook@finnegan.com
5 FINNEGAN, HENDERSON, FARABOW,
6 GARRETT & DUNNER, LLP
901 New York Avenue, N.W.
7 Washington, D.C. 20001-4413
Tel: (202) 408-4000
8

Molly A. Terwilliger, WSBA No. 28449
mollyt@summitlaw.com
SUMMIT LAW GROUP PLLC
315 Fifth Avenue S., Suite 1000
Seattle, Washington 98104
Tel: (206) 676-7000

9 Robert L. Burns (*pro hac vice*)
robert.burns@finnegan.com
10 Elliot C. Cook (*pro hac vice*)
elliott.cook@finnegan.com
11 FINNEGAN, HENDERSON, FARABOW,
12 GARRETT & DUNNER, LLP
11955 Freedom Drive
13 Reston, Virginia 20190-5675
Tel: (571) 230-2700
14

15 Cortney S. Alexander (*pro hac vice*)
cortney.alexander@finnegan.com
16 FINNEGAN, HENDERSON, FARABOW,
17 GARRETT & DUNNER, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
18 Atlanta, Georgia 30308-3263
Tel: (404) 653-6400
19

20 *Attorneys for Defendant AOL Inc.*
21
22
23
24
25
26
27

1 /s/ Brian M. Berliner (with permission)

2 Brian M. Berliner (*pro hac vice*)

3 bberliner@omm.com

4 Neil L. Yang (*pro hac vice*)

5 nyang@omm.com

6 O'MELVENY & MYERS LLP

7 400 South Hope Street

8 Los Angeles, California 90071

9 Tel: (213) 430-6000

10 George A. Riley (*pro hac vice*)

11 griley@omm.com

12 David S. Almeling (*pro hac vice*)

13 dalmeling@omm.com

14 O'MELVENY & MYERS LLP

15 Two Embarcadero Center, 28th Floor

16 San Francisco, California 94111

17 Tel: (415) 984-8700

18 *Attorneys for Defendant Apple Inc.*

19 /s/ Kristin L. Cleveland

20 J. Christopher Carraway, WSBA No. 37944

21 chris.carraway@klarquist.com

22 Kristin L. Cleveland (*pro hac vice*)

23 kristin.cleveland@klarquist.com

24 Klaus H. Hamm (*pro hac vice*)

25 klaus.hamm@klarquist.com

26 Derrick W. Toddy (*pro hac vice*)

27 derrick.toddy@klarquist.com

28 John D. Vandenberg, WSBA No. 38445

29 john.vandenberg@klarquist.com

30 KLARQUIST SPARKMAN, LLP

31 121 S.W. Salmon Street, Suite 1600

32 Portland, Oregon 97204

33 Tel: (503) 595-5300

34 *Attorneys for Defendants eBay Inc., Netflix, Inc., Office Depot, Inc., and Staples, Inc.*

35 Scott T. Wilsdon, WSBA No. 20608

36 wilsdon@yarmuth.com

37 Jeremy E. Roller, WSBA No. 32021

38 jroller@yarmuth.com

39 YARMUTH WILSDON CALFO PLLC

40 818 Stewart Street, Suite 1400

41 Seattle, Washington 98101

42 Tel: (206) 516-3800

43 Christopher T. Wion, WSBA No. 33207

44 chrisw@dhlt.com

45 Arthur W. Harrigan, Jr., WSBA No. 1751

46 arthurh@dhlt.com

47 DANIELSON HARRIGAN LEYH &

48 TOLLEFSON LLP

49 999 Third Avenue, Suite 4400

50 Seattle, Washington 98104

51 Tel: (206) 623-1700

1 Michael G. Rhodes (*pro hac vice*)
2 mrhodes@cooley.com
3 COOLEY LLP
4 101 California St., 5th Floor
5 San Francisco, California 94111
6 Tel: (415) 693-2000

/s/ Christopher Durbin (with permission)
Christopher B. Durbin, WSBA No. 41159
cdurbin@cooley.com
COOLEY LLP
719 Second Avenue, Suite 900
Seattle, Washington 98104
Tel: (206) 452-8700

5 Heidi L. Keefe (*pro hac vice*)
6 hkeefe@cooley.com
7 Mark R. Weinstein (*pro hac vice*)
8 mweinstein@cooley.com
9 Sudhir A. Pala (*pro hac vice*)
10 spala@cooley.com
11 Elizabeth L. Stameshkin (*pro hac vice*)
12 lstameshkin@cooley.com
13 COOLEY LLP
14 3175 Hanover St.
15 Palo Alto, California 94304
16 Tel: (650) 843-5000

17
18
19
20
21
22
23
24
25
26
27
Attorneys for Defendant Facebook, Inc.

1 Kevin X. McGann - (212) 819-8312
(*pro hac vice*)
2 kmcgann@whitecase.com
3 Dimitrios T. Drivas - (212) 819-8286
(*pro hac vice*)
4 ddrivas@whitecase.com
5 John Handy - (212) 819-8790 (*pro hac vice*)
6 jhandy@whitecase.com
7 Aaron Chase - (212) 819-2516 (*pro hac vice*)
8 achase@whitecase.com
9 WHITE & CASE LLP
10 1155 Avenue of the Americas
11 New York, New York 10036

/s/ Shannon M. Jost (with permission)
Shannon M. Jost, WSBA No. 32511
shannon.jost@stokeslaw.com
Scott A.W. Johnson, WSBA No. 15543
scott.johnson@stokeslaw.com
Theresa H. Wang (WSBA #39784)
theresa.wang@stokeslaw.com
STOKES LAWRENCE, P.S.
800 Fifth Avenue, Suite 4000
Seattle, Washington 98104
Tel: (206) 626-6000

9 Warren S. Heit - (650) 213-0321
(*pro hac vice*)
10 wheat@whitecase.com
11 Wendi Schepler - (650) 213-0323
(*pro hac vice*)
12 wschepler@whitecase.com
13 WHITE & CASE LLP
14 3000 El Camino Real
15 Building 5, 9th Floor
16 Palo Alto, California 94306

17 *Attorneys for Defendants Google Inc. and YouTube, LLC*

17 John S. Letchinger (*pro hac vice*)
18 letchinger@wildman.com
19 Douglas S. Rupert (*pro hac vice*)
20 rupert@wildman.com
21 WILDMAN, HARROLD, ALLEN & DIXON
22 LLP
23 225 West Wacker Drive, Suite 2800
24 Chicago, Illinois 60606
25 Tel: (312) 201-2698

/s/ Kevin C. Baumgardner (with permission)
Kevin C. Baumgardner, WSBA No. 14263
kbaumgardner@corrchronin.com
Steven W. Fogg, WSBA No. 23528
sfogg@corrchronin.com
CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP
1001 4th Avenue, Suite 3900
Seattle, Washington 98154
Tel: (206) 625-8600

23 Jeffrey D. Neumeyer, WSBA No. 35183
24 JeffNeumeyer@OfficeMax.com
25 OfficeMax Incorporated
26 1111 West Jefferson Street, Suite 510
27 Boise, Idaho 83702
Tel: (208) 388-4177

Attorneys for Defendant OfficeMax Incorporated

1 Michael A. Jacobs (*pro hac vice*)
mjacobs@mofocom
2 Matthew I. Kreeger (*pro hac vice*)
mkreeger@mofocom
3 Richard S.J. Hung (*pro hac vice*)
rhung@mofocom
4 Francis Ho (*pro hac vice*)
fho@mofocom
5 Eric W. Ow (*pro hac vice*)
eow@mofocom
6 MORRISON & FOERSTER LLP
7 425 Market Street
8 San Francisco, California 94105
Tel: (415) 268-7000

/s/ Mark P. Walters (with permission)
Mark P. Walters, WSBA No. 30819
mwalters@flhlaw.com
Dario A. Machleidt, WSBA No. 41860
dmachleidt@flhlaw.com
FROMMER LAWRENCE & HAUG LLP
1191 Second Avenue Suite 2000
Seattle, Washington 98101
Tel: (206) 336-5684

9 *Attorneys for Defendant Yahoo! Inc.*

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
27

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing on all counsel who are deemed to have consented to electronic service.

By: /s/ Kristin Cleveland
KLARQUIST SPARKMAN, LLP
121 S.W. Salmon Street, Suite 1600
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301
E-mail: kristin.cleveland@klarquist.com