

Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

INTERVAL LICENSING LLC,

Plaintiff,

v.

AOL, INC.; APPLE, INC.; eBAY, INC.;  
FACEBOOK, INC.; GOOGLE INC.; NETFLIX,  
INC.; OFFICE DEPOT, INC.; OFFICEMAX  
INC.; STAPLES, INC.; YAHOO! INC.; and  
YOUTUBE, LLC,

Defendants.

Civil Case No. 2:10-CV-01385-MJP

**AGREED DEPOSITION  
PROTOCOL AND [PROPOSED]  
ORDER**

Pursuant to the Court's Scheduling Order (Docket No. 178), the parties, through undersigned counsel hereby submit the following Agreed Deposition Protocol and [Proposed] Order.

**DEPOSITION PROTOCOL**

In order to facilitate discovery, the parties agree that the following Deposition Protocol shall govern all fact witness depositions.

**1. Scheduling.**

- a.** Times for Depositions. Depositions are to take place between the hours of 9:00 am and 6:00 pm on weekdays that are not Federal Holidays,

1 unless (i) otherwise agreed by the parties and the deponent, (ii) alternate  
2 times are necessary to accommodate the deponent's schedule; or (iii) it is  
3 necessary to go past 6:00 pm to get a full seven hours on the record.

4 **b.** Locations. Depositions shall take place, to the extent practicable, in a  
5 conference room provided by a law firm or Court Reporter. For any  
6 depositions of Plaintiff or a Third Party, the conference room should be  
7 able to accommodate at least 10 attendees, if possible.

8 **c.** The parties will confer in good faith about mutually scheduling  
9 depositions at a time and place convenient to all parties.

10 **d.** The depositions of Defendants should be coordinated between Plaintiff's  
11 counsel and the individual Defendant's counsel, consistent with the goal  
12 of scheduling all depositions for the mutual convenience of all parties.

13 **e.** The parties from time to time should exchange the total time used at  
14 depositions.

15 **f.** For any third-party deponent who refuses to sit for more than seven hours  
16 of deposition, the parties shall meet and confer prior to the deposition to  
17 allocate time to ensure that all parties have the opportunity to question the  
18 deponent.

19 **2. Remote Attendance.** Participation by telephone or videoconference is permitted.

20 Any party, party's counsel or other individual entitled to attend or to review the  
21 deposition under the Protective Order entered by the Court in this matter may receive  
22 access to the LiveNote transmission and monitor the deposition via LiveNote at their  
23 own expense. After commencement of the deposition, any technical delays relating  
24 to the LiveNote feed will either not delay the deposition or any delay of the  
deposition to remedy the technical failure will be charged against the total deposition

1 hour time limit of the party requesting such delay, at the option of the party taking  
2 the deposition.

3 **3. 30(b)(6) Procedures.** If an individual will be deposed both as an individual and as a  
4 30 (b)(6) corporate representative, the respective depositions will be conducted  
5 separately, although both depositions may be conducted on the same day if the time  
6 limits will permit.

7 **4. Notice to Third Parties.** When serving Subpoenas or Notices of Depositions, the  
8 Noticing Attorney shall include a copy of the Court's Deposition Protocol Order  
9 with the Notice.

10 **5. Attendance at Depositions by Defendants.** Any Defendant has the right to exclude  
11 any other Defendant(s) from a deposition or portion of a deposition where  
12 confidential information is discussed. Plaintiff's outside counsel permitted under the  
13 protective order to view Protected Material and Plaintiff's experts permitted under  
14 the protective order to view Protected Material may attend the depositions of any  
15 party.

16 **6. Objections.** Counsel shall comply with Fed. R. Civ. P. 30(d)(1). Objections will be  
17 made by counsel by stating, "Objection," and the basis for the objection concisely  
18 and in a nonargumentative and nonsuggestive manner. Any objection made at a  
19 deposition shall be deemed to have been made on behalf of all other parties. All  
20 objections, except those as to form and privilege, are reserved until trial or other use  
21 of the deposition. Counsel shall refrain from engaging in colloquy during deposition.  
22 The phrase "objection as to form" or similar language shall be sufficient to preserve  
23 all objections as to form and foundation until the deposition is sought to be used. If  
24 requested, the objecting party shall provide a sufficient explanation for the objection  
to allow the deposing party to rephrase the question.

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**7. Scheduling Order:** Nothing in this Deposition Protocol alters the deposition requirements and limitations set forth in the Court’s Scheduling Order (Dkt. # 178). Those deposition requirements and limitations are incorporated by reference herein

**PROPOSED ORDER**

The forgoing Deposition Protocol shall be adopted by the Court and used by the parties in this case.

SO ORDERED

\_\_\_\_\_  
Hon. Marsha J. Pechman, U.S. District Court Judge

1 Dated: February 28, 2011

2 */s/ Matthew R. Berry (with permission)*  
3 Justin A. Nelson, WSBA No. 31864  
4 [jnelson@susmangodfrey.com](mailto:jnelson@susmangodfrey.com)  
5 Matthew R. Berry, WSBA No. 37364  
6 [mberry@susmangodfrey.com](mailto:mberry@susmangodfrey.com)

7 SUSMAN GODFREY L.L.P.  
8 1201 Third Avenue, Suite 3800  
9 Seattle, Washington 98101  
10 Tel: (206) 516-3880

11 Max L. Tribble, Jr. (*pro hac vice*)  
12 [mtribble@susmangodfrey.com](mailto:mtribble@susmangodfrey.com)

13 SUSMAN GODFREY L.L.P.  
14 1000 Louisiana Street, Suite 5100  
15 Houston, Texas 77002  
16 Tel: (713) 651-9366

17 Michael F. Heim (*pro hac vice*)  
18 [mheim@hpcllp.com](mailto:mheim@hpcllp.com)  
19 Eric J. Enger (*pro hac vice*)  
20 [eenger@hpcllp.com](mailto:eenger@hpcllp.com)  
21 Nathan J. Davis (*pro hac vice*)  
22 [ndavis@hpcllp.com](mailto:ndavis@hpcllp.com)

23 HEIM, PAYNE & CHORUSH, L.L.P.  
24 600 Travis, Suite 6710  
Houston, Texas 77002  
Tel: (713) 221-2000

*Attorneys for Plaintiff Interval Licensing LLC*

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

Cortney S. Alexander (*pro hac vice*)  
[cortney.alexander@finnegan.com](mailto:cortney.alexander@finnegan.com)

1  
2  
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FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
3500 SunTrust Plaza  
303 Peachtree Street, NE  
Atlanta, Georgia 30308-3263  
Tel: (404) 653-6400

Gerald F. Ivey (*pro hac vice*)  
[gerald.ivey@finnegan.com](mailto:gerald.ivey@finnegan.com)  
Robert L. Burns (*pro hac vice*)  
[robert.burns@finnegan.com](mailto:robert.burns@finnegan.com)  
Elliot C. Cook (*pro hac vice*)  
[elliott.cook@finnegan.com](mailto:elliott.cook@finnegan.com)

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
901 New York Avenue, N.W.  
Washington, D.C. 20001-4413  
Tel: (202) 408-4000

*Attorneys for Defendant AOL Inc.*

*/s/ David S. Almeling (by permission)*  
Scott T. Wilsdon, WSBA No. 20608  
[wilsdon@yarmuth.com](mailto:wilsdon@yarmuth.com)  
Jeremy E. Roller, WSBA No. 32021  
[jroller@yarmuth.com](mailto:jroller@yarmuth.com)

YARMUTH WILSDON CALFO PLLC  
818 Stewart Street, Suite 1400  
Seattle, Washington 98101  
Tel: (206) 516-3800

Brian M. Berliner (*pro hac vice*)  
[bberliner@omm.com](mailto:bberliner@omm.com)  
Neil L. Yang (*pro hac vice*)  
[nyang@omm.com](mailto:nyang@omm.com)

O'MELVENY & MYERS LLP  
400 South Hope Street  
Los Angeles, California 90071  
Tel: (213) 430-6000

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George A. Riley (*pro hac vice*)  
[griley@omm.com](mailto:griley@omm.com)  
David S. Almeling (*pro hac vice*)  
[dalmeling@omm.com](mailto:dalmeling@omm.com)

O'MELVENY & MYERS LLP  
Two Embarcadero Center, 28th Floor  
San Francisco, California 94111  
Tel: (415) 984-8700

*Attorneys for Defendant Apple Inc.*

*/s/ Kristin L. Cleveland*  
J. Christopher Carraway, WSBA No. 37944  
[chris.carraway@klarquist.com](mailto:chris.carraway@klarquist.com)  
Kristin L. Cleveland (*pro hac vice*)  
[kristin.cleveland@klarquist.com](mailto:kristin.cleveland@klarquist.com)  
John D. Vandenberg, WSBA No. 38445  
[john.vandenberg@klarquist.com](mailto:john.vandenberg@klarquist.com)

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

Christopher T. Wion, WSBA No. 33207  
[chrisw@dhlt.com](mailto:chrisw@dhlt.com)  
Arthur W. Harrigan, Jr., WSBA No. 1751  
[arthurh@dhlt.com](mailto:arthurh@dhlt.com)

DANIELSON HARRIGAN LEYH &  
TOLLEFSON LLP  
999 Third Avenue, Suite 4400  
Seattle, Washington 98104  
Tel: (206) 623-1700  
*Attorneys for Defendants eBay Inc., Netflix,  
Inc., Office Depot, Inc., and Staples, Inc.*

*/s/ Christopher Durbin (with permission)*  
Christopher B. Durbin, WSBA No. 41159  
[cdurbin@cooley.com](mailto:cdurbin@cooley.com)

COOLEY LLP  
719 Second Avenue, Suite 900  
Seattle, Washington 98104  
Tel: (206) 452-8700

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Michael G. Rhodes (*pro hac vice*)  
[mrhodes@cooley.com](mailto:mrhodes@cooley.com)

COOLEY LLP  
101 California St., 5th Floor  
San Francisco, California 94111  
Tel: (415) 693-2000

Heidi L. Keefe (*pro hac vice*)  
[hkeefe@cooley.com](mailto:hkeefe@cooley.com)  
Mark R. Weinstein (*pro hac vice*)  
[mweinstein@cooley.com](mailto:mweinstein@cooley.com)  
Christen M.R. Dubois (*pro hac vice*)  
[cdubois@cooley.com](mailto:cdubois@cooley.com)  
Elizabeth L. Stameshkin (*pro hac vice*)  
[lstameshkin@cooley.com](mailto:lstameshkin@cooley.com)

COOLEY LLP  
3175 Hanover St.  
Palo Alto, California 94304  
Tel: (650) 843-5000  
*Attorneys for Defendant Facebook, Inc.*



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*/s/ Shannon M. Jost (with permission)*  
Shannon M. Jost, WSBA No. 32511  
[shannon.jost@stokeslaw.com](mailto:shannon.jost@stokeslaw.com)  
Scott A.W. Johnson, WSBA No. 15543  
[scott.johnson@stokeslaw.com](mailto:scott.johnson@stokeslaw.com)  
Aneelah Afzali, WSBA No. 34552  
[aneelah.afzali@stokeslaw.com](mailto:aneelah.afzali@stokeslaw.com)

STOKES LAWRENCE, P.S.  
800 Fifth Avenue, Suite 4000  
Seattle, Washington 98104  
Tel: (206) 626-6000

Kevin X. McGann - (212) 819-8312  
*(pro hac vice)*  
[kmcgann@whitecase.com](mailto:kmcgann@whitecase.com)  
Dimitrios T. Drivas - (212) 819-8286  
*(pro hac vice)*  
[ddrivas@whitecase.com](mailto:ddrivas@whitecase.com)  
John Handy - (212) 819-8790 *(pro hac vice)*  
[jhandy@whitecase.com](mailto:jhandy@whitecase.com)  
Aaron Chase - (212) 819-2516 *(pro hac vice)*  
[achase@whitecase.com](mailto:achase@whitecase.com)

WHITE & CASE LLP  
1155 Avenue of the Americas  
New York, New York 10036

Warren S. Heit - (650) 213-0321  
*(pro hac vice)*  
[wheit@whitecase.com](mailto:wheit@whitecase.com)  
Wendi Schepler - (650) 213-0323  
*(pro hac vice)*  
[wschepler@whitecase.com](mailto:wschepler@whitecase.com)

WHITE & CASE LLP  
3000 El Camino Real  
Building 5, 9th Floor  
Palo Alto, California 94306

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

1  
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3  
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*/s/ Steven W. Fogg (with permission)*  
Kevin C. Baumgardner, WSBA No. 14263  
[kbaumgardner@corrchronin.com](mailto:kbaumgardner@corrchronin.com)  
Steven W. Fogg, WSBA No. 23528  
[sfogg@corrchronin.com](mailto:sfogg@corrchronin.com)

CORR CRONIN MICHELSON  
BAUMGARDNER & PREECE LLP  
1001 4th Avenue, Suite 3900  
Seattle, Washington 98154  
Tel: (206) 625-8600

John S. Letchinger (*pro hac vice*)  
[letchinger@wildman.com](mailto:letchinger@wildman.com)  
Douglas S. Rupert (*pro hac vice*)  
[rupert@wildman.com](mailto:rupert@wildman.com)

WILDMAN, HARROLD, ALLEN & DIXON  
LLP  
225 West Wacker Drive, Suite 2800  
Chicago, Illinois 60606  
Tel: (312) 201-2698

*Attorneys for Defendant OfficeMax  
Incorporated*

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/s/ Mark P. Walters  
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

Michael A. Jacobs (*pro hac vice*)  
mjacobs@mofo.com  
Matthew I. Kreeger (*pro hac vice*)  
mkreeger@mofo.com  
Richard S.J. Hung (*pro hac vice*)  
rhung@mofo.com  
Francis Ho (*pro hac vice*)  
fho@mofo.com  
Eric W. Ow (*pro hac vice*)  
eow@mofo.com

MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, California 94105  
Tel: (415) 268-7000

*Attorneys for Defendant Yahoo! Inc.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 28, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

**Attorneys for AOL Inc.**

Molly A. Terwilliger mollyt@summitlaw.com  
Gerald F. Ivey gerald.ivey@finnegan.com  
Robert L. Burns robert.burns@finnegan.com  
Cortney S. Alexander cortney.alexander@finnegan.com  
Elliot C. Cook [elliott.cook@finnegan.com](mailto:elliott.cook@finnegan.com)

**Attorneys for Apple, Inc.**

David Almeling dalmeling@omm.com  
Brian Berliner bberliner@omm.com  
George Riley griley@omm.com  
Jeremy Roller jroller@yarmuth.com  
Scott Wilsdon wilsdon@yarmuth.com  
Neil Yang [nyang@omm.com](mailto:nyang@omm.com)

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

Christopher Carraway chris.carraway@klarquist.com  
Kristin Cleveland kristin.cleveland@klarquist.com  
John Vandenberg john.vandenberg@klarquist.com  
Christopher Wion chrisw@dhl.com  
Arthur Harrigan, Jr. [arthurh@dhl.com](mailto:arthurh@dhl.com)

**Attorneys for Facebook, Inc.**

Christen Dubois cdubois@cooley.com  
Heidi Keefe hkeefe@cooley.com  
Michael Rhodes mrhodes@cooley.com  
Elizabeth Stameshkin lstameshkin@cooley.com  
Mark Weinstein mweinstein@cooley.com  
Chris Durbin [cdurbin@cooley.com](mailto:cdurbin@cooley.com)

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

Aneelah Afzali aneelah.afzali@stokeslaw.com  
Aaron Chase achase@whitecase.com  
Dimitrios Drivas ddrivas@whitecase.com  
John Handy [jhandy@whitecase.com](mailto:jhandy@whitecase.com)  
Warren Heit wheit@whitecase.com  
Kevin McGann kmcgann@whitecase.com  
Scott Johnson scott.johnson@stokeslaw.com  
Shannon Jost [shannon.jost@stokeslaw.com](mailto:shannon.jost@stokeslaw.com)

1 **Attorneys for OfficeMax, Inc.**

Kevin Baumgardner kbaumgardner@corrchronin.com

2 Steven Fogg sfogg@corrchronin.com

John Letchinger letchinger@wildman.com

3 Douglas Rupert rupert@wildman.com

Jeff Neumeyer jeffneumeyer@officemax.com

4  
5 DATED: February 28, 2011

/s/ Dario A. Machleidt

For Mark P. Walters, WSBA No. 30819

Dario A. Machleidt, WSBA No. 41860

FROMMER LAWRENCE & HAUG LLP