

Honorable Marsha J. Pechman

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 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,

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

- b.** Locations. Depositions shall take place, to the extent practicable, in a conference room provided by a law firm or Court Reporter. For any depositions of Plaintiff or a Third Party, the conference room should be able to accommodate at least 10 attendees, if possible.
- c.** The parties will confer in good faith about mutually scheduling depositions at a time and place convenient to all parties.
- d.** The depositions of Defendants should be coordinated between Plaintiff's counsel and the individual Defendant's counsel, consistent with the goal of scheduling all depositions for the mutual convenience of all parties.
- e.** The parties from time to time should exchange the total time used at depositions.
- f.** For any third-party deponent who refuses to sit for more than seven hours of deposition, the parties shall meet and confer prior to the deposition to allocate time to ensure that all parties have the opportunity to question the deponent.

- 2. Remote Attendance.** Participation by telephone or videoconference is permitted. Any party, party's counsel or other individual entitled to attend or to review the deposition under the Protective Order entered by the Court in this matter may receive access to the LiveNote transmission and monitor the deposition via LiveNote at their own expense. After commencement of the deposition, any technical delays relating 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

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

3. **30(b)(6) Procedures.** If an individual will be deposed both as an individual and as a 30 (b)(6) corporate representative, the respective depositions will be conducted separately, although both depositions may be conducted on the same day if the time limits will permit.
4. **Notice to Third Parties.** When serving Subpoenas or Notices of Depositions, the Noticing Attorney shall include a copy of the Court's Deposition Protocol Order with the Notice.
5. **Attendance at Depositions by Defendants.** Any Defendant has the right to exclude any other Defendant(s) from a deposition or portion of a deposition where confidential information is discussed. Plaintiff's outside counsel permitted under the protective order to view Protected Material and Plaintiff's experts permitted under the protective order to view Protected Material may attend the depositions of any party.
6. **Objections.** Counsel shall comply with Fed. R. Civ. P. 30(d)(1). Objections will be made by counsel by stating, "Objection," and the basis for the objection concisely and in a nonargumentative and nonsuggestive manner. Any objection made at a deposition shall be deemed to have been made on behalf of all other parties. All objections, except those as to form and privilege, are reserved until trial or other use of the deposition. Counsel shall refrain from engaging in colloquy during deposition. The phrase "objection as to form" or similar language shall be sufficient to preserve all objections as to form and foundation until the deposition is sought to be used. If requested, the objecting party shall provide a sufficient explanation for the objection to allow the deposing party to rephrase the question.

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

ORDER

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

SO ORDERED this 2nd day of March, 2011



Marsha J. Pechman
United States District Judge