

Hon. Marsha J. Pechman

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UNITED STATES DISTRICT COURT
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.

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

**INTERVAL LICENSING LLC'S
NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF ITS
OPPOSITION TO DEFENDANTS'
RENEWED MOTIONS TO SEVER
JURY DEMAND**

Interval respectfully files this Notice of Supplemental Authority to bring to the Court's attention a recent opinion issued by the Federal Circuit that further supports Interval's Opposition to Defendants' Renewed Motions to Sever. (Dkt. # 200). On March 4, 2011, the Federal Circuit denied a petition for writ of mandamus in *In re Google, Inc., et al.*, Misc. Docket # 968, 2011 WL 772875 (Fed. Cir. March 4, 2011) (attached as Exhibit 1).¹ The petition arose out of the district court's denial of the defendants' motion to sever and transfer in a patent infringement action that the respondent had filed against twenty-two defendants in the Eastern District of Texas. *Id.* at 1. In denying the motion to sever, the district court concluded "that the products, facts, and issues of law were significantly related and overlapping and that severance and transfer would not preserve judicial economy." *Id.*

¹ Note that six of the defendants in this action were also defendants in *In re Google, Inc., et al.*

1 The Federal Circuit denied the mandamus petition, holding that the district court had not
2 abused its discretion in denying the motion to sever and transfer. It concluded that “Courts have
3 consistently held that judicial economy plays a paramount role in trying to maintain an orderly,
4 effective, administration of justice and having one trial court decide all of these claims clearly
5 furthers that objective.” *Id.* at 4. The court also held that it was not an abuse of discretion for the
6 district court to have determined that “adjudicating infringement . . . will involve substantially
7 overlapping questions of law or fact.” *Id.* (quoting the Transfer Order at 3; alteration in original).
8 The Federal Circuit’s reasoning applies equally to Defendants’ Renewed Motions to Sever.

9 Counsel for Interval has notified counsel for Defendants that it intends to rely on *In re*
10 *Google, Inc., et al.*, and has provided counsel with a copy of the decision. It will also bring
11 copies of the decision to the hearing on the Renewed Motions to Sever.

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13 **Respectfully Submitted:**

April 25, 2011

14 /s/ Justin Nelson

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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 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:

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