

NOTE: This order is nonprecedential.

# United States Court of Appeals for the Federal Circuit

2009-1559

CREATIVE INTERNET ADVERTISING CORPORATION,

Plaintiff-Appellee,

v.

YAHOO! INC.,

Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Texas  
in case no. 07-CV-0354, Magistrate Judge John D. Love.

ON MOTION

ORDER

Yahoo! Inc. (Yahoo) moves to stay the briefing schedule in this appeal pending further proceedings before the United States District Court for the Eastern District of Texas. Yahoo also moves for an extension of time to file its brief and for leave to substitute Charles K. Verhoeven as principal counsel and withdraw Jason C. White as principal counsel.

Creative Internet Advertising Corporation (CIAC) brought this suit against Yahoo for patent infringement. After trial, the jury found that CIAC's patent was infringed and not invalid. Yahoo filed various post-trial motions. CIAC also filed several post-trial motions, seeking: (1) supplemental damages for any infringing activities by Yahoo occurring between the trial and entry of final judgment, (2) relief in the form of an ongoing royalty in lieu of an injunction, (3) enhanced damages under 35 U.S.C. § 284, and (4) attorney fees under 35 U.S.C. §285.

The district court denied all of Yahoo's post-trial motions and issued an order setting a hearing on the issue of the ongoing royalty rate. Yahoo appealed and filed the motion to stay proceedings in this court pending resolution of the royalty rate issue.

On December 9, 2009, the district court granted-in-part CIAC's motion for entry of judgment, awarded CIAC 20% of the revenues Yahoo earned between November 30, 2008 and May 15, 2009 (the date of the jury's verdict), and ordered Yahoo to make quarterly payments of 23% of the post-verdict revenue earnings as an ongoing royalty. There is no longer a need to stay proceedings in this appeal pending action by the district court.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for a stay is denied as moot.
- (2) The motion for an extension of time is granted. Yahoo's opening brief is due within 30 days of the date of filing of this order.
- (3) The motion to substitute and withdraw counsel is granted.

FOR THE COURT

JAN 26 2010

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Anthony G. Simon, Esq.  
Jason C. White, Esq.  
Charles K. Verhoeven, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

JAN 26 2010

JAN HORBALY  
CLERK