

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE YAHOO! INC.  
SHAREHOLDERS LITIGATION

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:  
: Civil Action  
: No. 3561-CC  
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Via Telephone  
Court of Chancery Courthouse  
Wilmington, Delaware  
Tuesday, April 22, 2008  
4:40 p.m.

- - -

BEFORE: HON. WILLIAM B. CHANDLER III, Chancellor.

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TELEPHONE CONFERENCE

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CHANCERY COURT REPORTERS  
500 North King Street - Suite 11400  
Wilmington, Delaware 19801-3759  
(302) 255-0525

## 1 APPEARANCES:

2 JOEL FRIEDLANDER, ESQ.  
3 Bouchard, Margules & Friedlander, P.A.  
4 Bernstein, Litowitz, Berger & Grossmann, LLP  
5 for Police and Fire Retirement System  
6 of the City of Detroit and the General  
7 Retirement System of the City of Detroit

8 BRUCE L. SILVERSTEIN, ESQ.  
9 Young, Conaway, Stargatt & Taylor, LLP  
10 for Defendants Jerry Yang, Roy Bostock,  
11 Ron W. Burkle, Eric Hippeau, Vyomesh  
12 Joshi, Arthur H. Kern, Robert A. Kotick,  
13 Edward Kozel, Maggie Wilderotter,  
14 and Gary L. Wilson

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1 THE COURT: Good afternoon, counsel.

2 MR. FRIEDLANDER: Good afternoon, Your  
3 Honor.

4 THE COURT: Thank you for being  
5 available. I believe we have a court reporter on the  
6 line with us.

7 I called you on short notice, counsel,  
8 because I know you're anxious to move forward one way  
9 or another on this application to compel the  
10 deposition of Mr. Kern. I've read the motion that  
11 Mr. Friedlander filed and, then, Mr. Silverstein, your  
12 response to that, and then I got the reply today as  
13 well from Mr. Friedlander to your opposition.

14 Essentially, the point I'm at now is  
15 that this case is not a case that I have concluded at  
16 this point, anyway, deserves expedition or any special  
17 accelerated treatment. I put you on an ordinary  
18 tract. And although I'm a bit mystified about why  
19 it's so difficult to put Mr. Kern on for even half a  
20 day before he leaves on his honeymoon break --  
21 although that does mystify me -- I'm unwilling to  
22 order that Mr. Kern sit for a deposition between now  
23 and whenever he does leave. And so what I can do for  
24 you is this.

1                   Let me ask you, Mr. Silverstein. What  
2 happens if we get into June and suddenly this case  
3 becomes very fast moving and I have to schedule it or  
4 move it to a trial on a very expedited basis? What  
5 happens then with Mr. Kern being available for a  
6 deposition? Suppose that were to occur in June while  
7 he's on vacation?

8                   MR. SILVERSTEIN: Your Honor,  
9 plaintiffs' counsel asked that question to us when we  
10 were discussing Mr. Kern's lack of availability. I'm  
11 speaking loud into my phone. I think it's the  
12 connection. I can't hear the court reporter very  
13 well, either. Your Honor, I'm sorry.

14                   We discussed that with plaintiffs'  
15 counsel and told them that we expected that, in the  
16 unlikely event this case were to become accelerated  
17 and Mr. Kern's testimony were necessary either for us  
18 or for them, we expect inconveniences occur in  
19 expedited litigation that don't occur in nonexpedited  
20 litigation. If we had to find him and inconvenience  
21 him, that would just have to happen. But this is not  
22 an expedited litigation.

23                   THE COURT: All right.

24                   MR. FRIEDLANDER: Your Honor, may I

1 respond to that?

2 THE COURT: Sure.

3 MR. FRIEDLANDER: What I don't  
4 understand is exactly how does that work. He's going  
5 to be in Europe through June 10th. We're having a  
6 trial scheduled sometime in June -- early June, mid  
7 June. They were to fly him back or that they would  
8 agree that we could fly there? I don't recall an  
9 offer of that sort being made. That's why what  
10 concerns us -- it seems to actually preclude the  
11 possibility that Your Honor postulated, which what  
12 could be in very short order on a track toward an  
13 expedited trial if we don't have one right now. Now  
14 that we especially find out there's a whole extra week  
15 here to work with, that's completely unexplained by  
16 Mr. Kern why he can't sit all next week.

17 First we thought it was only this  
18 week. It turns out it's all next week that he's in  
19 this country. Just by the ordinary course of things,  
20 we should notice his deposition. That's our concern.  
21 If there's a problem if we can't, and then in the  
22 ordinary course we should be able to.

23 THE COURT: The only thing,  
24 Mr. Friedlander, that occurs to me is that, given the

1 lack of, as you said, any real reasonable explanation  
2 for why Mr. Kern can't be available for a half a day  
3 of deposition between now and when he leaves for his  
4 honeymoon, you know, over a week from now, and the  
5 risk that that might mean some time in June he would  
6 be called back in order to sit for a deposition, what  
7 I'm suggesting to you is that the equities will then  
8 all tilt in your favor. And that if it means Mr. Kern  
9 has to be called back to sit for a deposition in  
10 Wilmington, Delaware on June the first, or June the  
11 fifth, then I'm likely to order something like that  
12 because, as I said, the equities will then have tilted  
13 dramatically in your favor.

14 MR. FRIEDLANDER: I understand, Your  
15 Honor.

16 THE COURT: Just so Mr. Silverstein  
17 understands.

18 MR. SILVERSTEIN: Absolutely, Your  
19 Honor.

20 THE COURT: All right, counsel.  
21 That's my ruling. I deny the motion to compel at this  
22 stage. And I would suggest that you schedule that  
23 deposition for the 13th of June and move forward from  
24 there, and that all the other discovery in the

1 meantime go forward as scheduled.

2 Thank you very much, counsel, for  
3 being available on short notice.

4 MR. FRIEDLANDER: Thank you, Your  
5 Honor.

6 THE COURT: By now.

7 (Teleconference adjourned at 4:46  
8 p.m.)  
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## CERTIFICATE

I, DIANE G. MCGRELLIS, Official Court Reporter of the Chancery Court, State of Delaware, do hereby certify that the foregoing pages numbered 3 through 7 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Vice Chancellor of the State of Delaware, on the date therein indicated.

IN WITNESS WHEREOF I have hereunto set my hand at Wilmington, this 22nd day of April, 2008.

/s/ Diane G. McGrellis

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Official Court Reporter  
of the Chancery Court  
State of Delaware

Certification Number: 108-PS  
Expiration: Permanent