

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAHUL MANCHANDA,

Plaintiff,

-against-

GOOGLE, YAHOO, MICROSOFT BING,

Defendants.

Civil Action No. 1:16-cv-03350 (JPO)(JCF)

**YAHOO’S CONSOLIDATED RESPONSE TO PLAINTIFF’S:
(1) OPPOSITION TO YAHOO’S MOTION TO DISMISS; AND
(2) MOTION FOR CONTEMPT**

Defendant Yahoo! Inc. (“Yahoo”), by and through its undersigned attorneys, respectfully responds to Plaintiff’s Reply Affidavit in Opposition to Yahoo’s Motion to Dismiss (Dkt. Nos. 21-23), and Plaintiff’s First Motion for Contempt (Dkt. No. 26) as follows:

Plaintiff’s claims that Yahoo and/or Yahoo’s counsel made statements about, or decisions motivated by, any person’s race, religion, ethnicity, creed, or anything similar (*see* Dkt. Nos. 21-23, 26), are untrue and unfounded (not to mention offensive and, ironically, defamatory and sanctionable). Yahoo reserves the right to pursue all available relief for these boldly false accusations. Nevertheless, they are irrelevant to the motions before this Court.

The court order referenced by Plaintiff (*see* Dkt. Nos. 21-23, 26) was modified by a subsequent order dismissing Plaintiff’s complaint for failure to state a claim upon which relief could be granted. The dismissal was attached as Exhibit 1 to Yahoo’s Request for Judicial Notice (Dkt. Nos. 20-3, 29-2), and is attached again here as **Exhibit 1**. This lawsuit is nothing more than an attempt by Plaintiff to resurrect claims that have already been decided against him.

Contrary to Plaintiff's assertions, the New York state court did not order Google, Microsoft, or Yahoo to remove the referenced search results. Rather, the court specifically held that, under Section 230 of the CDA, "Google and Microsoft are under no obligation to remove the URLs from their search results." (Ex. 1 at 3).¹ Even if the New York state court had ordered Microsoft and Google to remove the search results at issue, and assuming this Court could exercise jurisdiction to rule on a motion for contempt based on an unenforceable order in a separate state court action, Yahoo was neither a party to that case nor referenced in the state court's orders.

In light of the foregoing, Plaintiff's Motion for Sanctions (Dkt. No. 26) should be denied.

As for Yahoo's Motion to Dismiss, for the reasons stated in Yahoo's Memorandum of Law In Support of its Motion to Dismiss (Dkt. Nos. 20-1, 29)—which Plaintiff does not refute or otherwise address—Yahoo's Motion should be granted in its entirety.

Dated: May 23, 2016

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

/s/ Jeremy A. Schachter
Jeremy A. Schachter (JS 2181)
The Grace Building
1114 Avenue of the Americas
21st Floor
New York, New York 10036
Telephone: (212) 775-8750
jschachter@kilpatricktownsend.com

¹ Google and Microsoft are co-defendants in this action. Both have yet to respond to Plaintiff's complaint, but have been granted extensions of time to respond by the Court (*see* Dkt. Nos. 10, 18).

Dennis Wilson (admitted *pro hac vice*)
Caroline Barbee (admitted *pro hac vice*)
9720 Wilshire Blvd PH
Beverly Hills, California 90212
Telephone: (310) 777-3740
dwilson@kilpatricktownsend.com
cbarbee@kilpatricktownsend.com

Attorneys for Defendant Yahoo Inc.