

THE TALENT

Dealmaker of the Week: Brian Pass of Sheppard Mullin

Posted by Brian Baxter

Sheppard Mullin Richter & Hampton entertainment and IP partner Brian Pass has handled several noteworthy matters for Yahoo in recent years. But the stakes of a deal handled this week are a good bit higher. Pass helped negotiate the ten-year Internet search and advertising deal Yahoo struck with Microsoft Wednesday, a partnership that might finally help Yahoo break Google's market dominance.

Pass got the call to negotiate for Yahoo on the deal in early June, while vacationing with his family along northeastern Spain's Costa Brava. That quickly halted Pass's beach time on the Catalan coast--he was soon leaving the wife and kids behind to board a plane for the long flight back to Los Angeles, then a quick flight from there up to Yahoo's headquarters near San Jose.

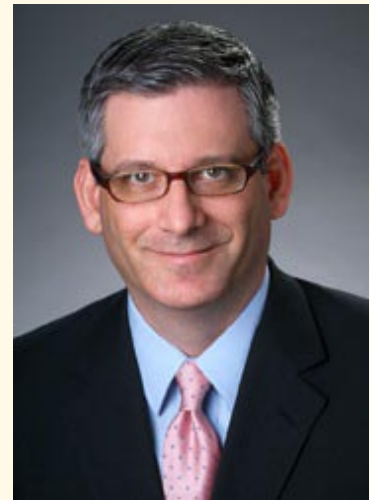
"For the next six weeks or so it was pretty nonstop, negotiating all the details," Pass says.

Pass's relationship with Yahoo began with his representation of Overture, a pioneer in Internet page search advertising. For those uninitiated in Silicon Valley-speak, Overture sold advertising links to accompany Web search results on sites like Yahoo and MSN. (We won't mention that other search engine unless absolutely necessary.)

In 2003 Pass represented Overture on an agreement with Yahoo to provide page search results in international markets. He was unaware of it at the time, but Yahoo was "in another room" working on another deal to buy all of Overture. The \$1.63 billion acquisition was completed before Pass could hammer out his page search agreement with the company.

Pass, then the leader of Brown Raysman & Steiner's West Coast technology, media, and communications practice, benefited from Yahoo's acquisition--before long, he was advising the online portal on page search matters. In November 2006 he left Brown Raysman, just a month after the firm agreed to what eventually proved to be an ill-fated merger with Thelen Reid. (The combined firm announced plans to dissolve last October.)

Since then Pass has helped Yahoo forge strategic partnerships with eBay and Comcast. He's also helped the Sunnyvale, Calif.-based company craft agreements to provide page search results to Microsoft--before Microsoft got into the business itself--and a display advertising and search agreement between Yahoo and a consortium of newspaper



publishers. (A deal that some say could be adversely affected by the new Microsoft-Yahoo ad sharing alliance.)

Last summer after Yahoo fought off an unsolicited takeover attempt by Microsoft, Pass negotiated an ad sharing agreement with archrival Google. (The deal ultimately was nixed because of antitrust issues.)

Antitrust approval of this latest accord between Microsoft and Yahoo is one aspect of the current agreement that's out of Pass's control. Skadden, Arps, Slate, Meagher & Flom partners Michael Weiner and Alec Chang are serving as Yahoo's antitrust counsel. But Pass won't be sitting on his hands in the interim.

The deal between the two companies this week represents a binding letter of intent to share ad revenue, he says. While Pass will be less involved in the regulatory process, he'll still be busy over the next few months working on a definitive agreement. Once that's done though, there's not much else he can do except wait.

"[Yahoo and I] have enjoyed a very good relationship," Pass says. "But after the start of the regulatory process, I guess all I can do is cross my fingers and hope we get this one through."