Speed Track, Inc. v. Amazon.com, Inc. et al

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WHEREAS, Plaintiff SpeedTrack, Inc. ("SpeedTrack") filed the case of SpeedTrack, Inc. v. Wal-Mart Stores, Inc., et. al., Case No. 06-CV-07336-PJH ("the Wal-Mart Action") for infringement of SpeedTrack's U.S. Patent No. 5,544,360 ("the '360 patent") on November 29, 2006. WHEREAS, Plaintiff SpeedTrack filed another action, SpeedTrack, Inc. v. Office Depot, Inc., et. al., Case No. 07-CV-03602-PJH ("the Office Depot Action"), also for infringement of the '360 patent, on July 12, 2007. WHEREAS, on August 13, 2007, the Court held that the Office Depot Action and the Wal-Mart Action are related actions. WHEREAS, on October 10, 2007, the Court granted the Defendants' motion to stay the Office Depot Action pending the resolution of the Wal-Mart Action and, whereas, the Office Depot Action is currently stayed. WHEREAS, on January 12, 2009, the United States Patent and Trademark Office granted the Request for Reexamination of the '360 patent filed by Endeca Technologies, Inc. WHEREAS, on February 5, 2009, the Court granted the Defendants' motion to stay the Wal-Mart Action pending the resolution of the reexamination of the '360 patent. WHEREAS, SpeedTrack filed this Action ("the Amazon Action") for infringement of the '360 patent on September 23, 2009. WHEREAS, the parties to this Action agree that this Action should be stayed until such time as both (i) the reexamination of the '360 patent is resolved and (ii) judgment in the Wal-Mart Action or an order dismissing the Wal-Mart Action is entered, and that, at that time, the Court, with input from the parties, should then determine how the individual Defendants in this Action are to be tried. IT IS HEREBY STIPULATED by and between the parties or through their respective counsel of record (as indicated below), THAT: /// /// ///

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]	Subject to the Court's approval, all procee	dings in this Action, including discovery, shall be		
2	stayed until such time as both (i) the reexamination	stayed until such time as both (i) the reexamination of the '360 patent is resolved and (ii) judgment		
3	in the Wal-Mart Action or an order dismissing the	e Wal-Mart Action is entered.		
4	SO STIPULATED.			
5				
6	DATED: /1/16/09	HENNIGAN BENNETT & DORMAN LLP		
7				
8		Roderick G. Dorman		
9		Alan P. Block Marc Morris		
10		Attorneys for Plaintiff SpeedTrack, Inc./		
11	DATED:	AMAZON.COM; INC		
12	DATED.	AWAZON.COW INC.		
13		By Challes Challes		
14		Kathryn Sheehan (SIN 223339)		
15		Attorneys for Defendant Amazon.com, Inc.		
16	DATED:	PERKINS COIE LLP		
17		D.		
18	•	By Gigi C. Hoang (SBN 241182)		
19		Attorneys for Defendant		
20		Costco Wholesale Corporation		
21	DATED:	1-800-FLOWERS, INC.		
22		Ву		
23		By Thomas E. Plastaras		
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#### Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page4 of 24

1	Subject to the Court's approval, all proceedings in this Action, including discovery, shall be		
2	stayed until such time as both (i) the reexamination of the '360 patent is resolved and (ii) judgment		
3	in the Wal-Mart Action or an order dismissing the Wal-Mart Action is entered.		
4	SO STIPULATED.		
5			
6	DATED:	HENNIGAN, BENNETT & DORMAN LLP	
7			
8		ByRoderick G. Dorman	
9		Alan P. Block Marc Morris	
10	,	Attorneys for Plaintiff	
11		SpeedTrack, Inc.	
12	DATED:	AMAZON.COM, INC.	
13		By	
14		Kathryn Sheehan	
15		Attorneys for Defendant Amazon.com, Inc.	
16	DATED:	PERKINS COIE LLP	
17		Production of the second	
18		By /s/ Gigi C. Hoang Gigi C. Hoang (SBN 241182)	
19		Attorneys for Defendant	
20	·	Costco Wholesale Corporation	
21	DATED:	1-800-FLOWERS, INC.	
22		Ву	
- 23		Thomas E. Plastaras	
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## Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page5 of 24

1	Subject to the Court's approval, all proceedings in this Action, including discovery, shall be	
2	stayed until such time as both (i) the reexamination of the '360 patent is resolved and (ii) judgment	
3	in the Wal-Mart Action or an order dismissing the Wal-Mart Action is entered.	
4	SO STIPULATED.	
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6	DATED: HENNIGAN, BENNETT & DORMAN LLP	
7	Ву	
8	Roderick G. Dorman	
9	Alan P. Block Marc Morris	
10	Attorneys for Plaintiff SpeedTrack, Inc.	
11	DATED: AMAZON.COM, INC.	
12	The Edition of the Ed	
13	By Kathryn Sheehan	
14	Attorneys for Defendant	
15	Amazon.com, Inc.	
16	DATED: PERKINS COIE LLP	
17	Ву	
18	Gigi C. Hoang (SBN 241182)	
19	Attorneys for Defendant	
20	Costco Wholesale Corporation	
21	DATED: 1-800-FLOWERS, INC.	
22	By Mus Hilly	
23	Thomas E. Plastaras	
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	1	DATED:	BARNESANDNOBLE.COM, LLC AND BARNESANDNOBLE.COM, INC.
	2	·	By Buly a Fer
	3	·	Bracley A. Feuer
	4	DATED:	FULBRIGHT & JAWORSKI L.L.P.
	5	DATED.	FULBRIGHT & JAWURSKI L.L.P.
	6		ByGilbert A. Greene
-	7		Gilbert A. Greene
	8		Attorneys for Defendant The Home Depot, Inc.
	9	DATED:	NIKE, INC.
	10		
	11		By Julianne Davis
	12		
diri	13	DATED:	NORTHERN TOOL & EQUIPMENT CATALOG CO., INC.
fornia	14		Dv
los angeles, california	15		ByAlan C. Kotula
angelo	16		·
ol lo	17	DATED:	J & R ELECTRONICS, INC.
	18		Ву
	19		Stuart Kovar
	20	DATED:	FARELLA BRAUN + MARTELL LLP
-	21		TARGELA BIOTOTO - MARTELE EE
	22		By <u>/S/ Eugene Y. Mar</u> Eugene Y. Mar
	23		Attorneys for Defendant
	24	,	Dell.com, Inc.
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		Case No. 09-CV-04479-JSW	-3- JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

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	1	DATED:		BARNESANDNOBLE.COM, LLC AND BARNESANDNOBLE.COM, INC.
	2			,
	3			By Bradley A. Feuer
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	5	DATED:		FULBRIGHT & JAWORSKI L.L.P.
	6	• .		By Nillett A. Trece
	7			Gilbert A. Greene
				Attorneys for Defendant The Home Depot, Inc.
	8			The Home Depot, Inc.
	9	DATED:		NIKE, INC.
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11p	13	DATED:		NORTHERN TOOL & EQUIPMENT CATALOG CO., INC.
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ct & I	15			By Alan C. Kotula
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	19			Stuart Kovar
	20	DATED:		FARELLA BRAUN + MARTELL LLP
	21			
-	22			By /S/ Eugene Y. Mar Eugene Y. Mar
	23		•	Attorneys for Defendant
	24			Dell.com, Inc.
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## Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page8 of 24

	1	DATED:	BARNESANDNOBLE.COM, LLC AND BARNESANDNOBLE.COM, INC.
	2		<b>.</b>
	3		ByBradley A. Feuer
	4	DATED:	FULBRIGHT & JAWORSKI L.L.P.
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	6		ByGilbert A. Greene
	7 8		Attorneys for Defendant The Home Depot, Inc.
	9.	DATED:	NIKE, INC.
	10	·	Migane Dus
	11		Julianne Davis
	12	DATED	
in 11p	13	DATED:	NORTHERN TOOL & EQUIPMENT CATALOG CO., INC.
Dorma	14		<b>n</b>
Hennigan, Bennett & Dorman llp lawynra los angeles, california	15		ByAlan C. Kotula
	16	DATED:	I A D DI TOMBONYON DIO
enniga	17	DATED.	J & R ELECTRONICS, INC.
m.	18		By
	19		Stuart Kovar
	20	DATED:	FARELLA BRAUN + MARTELL LLP
	21		Dr. (0/E
	22		By /S/ Eugene Y. Mar Eugene Y. Mar
	23 24		Attorneys for Defendant Dell.com, Inc.
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		Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

## Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page9 of 24

	1	DATED:	BARNESANDNOBLE.COM, LLC AND BARNESANDNOBLE.COM, INC.
	2 3		Ву
	4		Bradley A. Feuer
	5	DATED:	FULBRIGHT & JAWORSKI L.L.P.
	6	·	Ву
	7		Gilbert A. Greene
	8		Attorneys for Defendant The Home Depot, Inc.
	9	DATED:	NIKE, INC.
	10		Ву
	11		Julianne Davis
ρ	12	DATED:	NORTHERN TOOL & EQUIPMENT CATALOG CO. INC.
rman 11) .a	13 14		CATALOG CO./INC.
Hennigan, Bennett & Dorman 11p lawyers los angeles, celiforme	15		By Alan C. Kotula
Bennet lasy angeles,	16		Aigh C. Roidia
nigan, los	17	DATED:	J & R ELECTRONICS, INC.
Неп	18		Ву
	19		Stuart Kovar
	20	DATED:	FARELLA BRAUN + MARTELL LLP
	21		By /S/ Eugene Y. Mar
	22		Eugene Y. Mar
	23		Attorneys for Defendant Dell.com, Inc.
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		Case No. 09-CV-04479-JSW	-3- JOINT STIPULATION AND [PROPOSED] ORDER

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	1	1	
	1	DATED:	ROBINS, KAPLAN, MJLLER & CIRESI LLP
	2		n
	3		ByMichael A. Geibelson
	4		Attorneys for Defendants
	5		Best Buy Co. and Best Buy.com, LLC
	6.	DATED:	GREENBERG TRAURIG
	7		Ву 22
	8		Barry J. Schindler
	9		Attorneys for Defendant Systemax, Inc.
	10	DATED:	WILDMAN HARROLD
	11		R <sub>V</sub>
	12		John Letchinger
	13		Attorneys for Defendant OfficeMax, Inc.
) Correct	14	DATED:	AMSTER, ROTHSTEIN & EBENSTEIN LLP
ins engolas. Aliforasa	15		
3.15	16		ByAnthony F. Lo Cicero
	17	19 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Attorneys for Defendants
	18		Macy's, Inc. and Macys.com, Inc.
	19	DATED:	OVERSTOCK.COM, INC.
	20		n.,
	21	/	By
	22	The second of th	Attorneys for Defendant
	23		Overstock.com, Inc.
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	1		ROBINS, KAPLAN, MJLLER & CIRESI LLP
	2	1	Ву
	3		Michael A. Geibelson
	4	T	Attorneys for Defendants Best Buy Co. and Best Buy.com, LLC
	5	DATED:	GREENBERG TRAURIG
	6	and the state of t	ONDENDENCE HOTORIG
	7		ByBarry J. Schindler
	. 8 9		Attorneys for Defendant
	10		Systemax, Inc.
	11	DATED: ///o/	WILDMAN HARROLD
	12		Ву
	13		John Letchinger
eja	14		Attorneys for Defendant OfficeMax, Inc.
ios angeles, california	15	DATED:	AMSTER, ROTHSTEIN & EBENSTEIN LLP
angeles.	16		
Ice	17		Anthony F. Lo Cicero
	18		Attorneys for Defendants
	19	DATED:	Macy's, Inc. and Macys.com, Inc.
	20		OVERSTOCK.COM, INC.
	21		By Mark Griffin
	22		Attorneys for Defendant
	23	·	Overstock.com, Inc.
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	-	Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

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		·	
	1	DATED:	FARELLA BRAUN + MARTELL LLP
	2		Ву
4	3 .		ByEugene Y. Mar
	4		Attorneys for Defendant Dell.com, Inc.
	5	DATED:	FIRM:
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	7		Ву
	8 9		Attorneys for Defendants Best Buy Co. and Best Buy.com, LLC
	10	DATED:	FIRM:
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1	13		Attorneys for Defendant Systemax, Inc.
fornia	14	DATED:	FIRM:
awyers cs. cals	15	DATED.	THOUSE.
nellityan, bennett & Dolman lawyers los argeles, california	16		Ву
1	17		Attanam for Defendent
D G	18		Attorneys for Defendant Office Max, Inc.
٠	19	DATED: November 16, 2009	AMSTER, ROTHSTEIN & EBENSTEIN LLP
	20		90 PARK AVENUE NEW YORK, NEW YORK 10016
	21		TEL.: (212) 336-8000 FAX: (212) 336-8001:
	22		
	23		B/ M//lem
	24		Anthony Lo Cicero <u>AL 7538</u>
	25		Attorneys for Defendants Macy's, Inc. and Macys.com, Inc.
	26	, ,	
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		Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

## Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page15 of 24

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	1	DATED:	ROBINS, KAPLAN, MJLLER & CIRESI LLP
	2		
			By Michael A. Geibelson
	3	·	Michael A. Geibelson
	4		Attorneys for Defendants Best Buy Co. and Best Buy.com, LLC
	5	DATED:	GREENBERG TRAURIG
•	6	DATED.	GIGENIEM TRACTIC
	7	·	Ву
			By Barry J. Schindler
-	8		Attorneys for Defendant Systemax, Inc.
	10	DATED:	WILDMAN HARROLD
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	12		By
Hennigan, Bennett & Dorman lip lawyere los angeles, california	13		Attorneys for Defendant OfficeMax, Inc.
Dorm erais,	14		•
n, Bennett & Dorm Lawrer los angeles, california	15	DATED:	AMSTER, ROTHSTEIN & EBENSTEIN LLP
Beni kageli	16		Ву
988.	17		Anthony F. Lo Cicero
нелпі	18		Attorneys for Defendants Macy's, Inc. and Macys.com, Inc.
	19	DATED:	OVERSTOCK.COM, INC.
	20		71. 0 **
	21		By Mark Griffin
•	22		
	23		Attorneys for Defendant Overstock.com, Inc.
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		Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

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	1	DATED: 10/29/09	K & L GATES
	2		By C-2
	3		Cristofer I. Leffler (Admitted Pro Hac Vice)
	5		Attorneys for Defendant Recreational Equipment, Inc.
	6	DATED:	RADER, FISHMAN & GRAUER, PLLC
	7		Ву
	8		By Thomas E. Bejin
	9	·	Attorneys for Defendant Value Vision International, Inc., dba, Shopnbc.com
	11	DATED:	KAYE SCHOLER LLP
	12		
ďΤΤ	13		By Aaron Stiefel
& Dorman Ufomia	14		Attorneys for Defendant B & H Foto & Electronics Corporation
Bennett lawers angeles, cal	15 16	DATED:	MORGAN, LEWIS & BOCKIUS LLP
nnigan, los	17		By
Hen	18		Michael J. Lyons
·	19		Attorneys for Defendant Hewlett-Packard Company
	20	DATED:	TURNER BOYD LLP
	21		D.,
	22		By Karen Boyd
	23		Attorneys for Defendant Redcats USA, Inc.
	24		Redeats OBA, Inc.
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		Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

Case No. 09-CV-04479-JSW

JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

## Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page18 of 24

	1	DATED:		K & L GATES
	2			_
	3			ByCristofer I. Leffler
	4			(Admitted Pro Hac Vice)
	5			Attorneys for Defendant Recreational Equipment, Inc.
	6	DATED:		RADER, FISHMAN & GRAUER, PLLC
	7			
	8			By Thomas E. Bejin
	9			Attorneys for Defendant
	10			Value Vision International, Inc., dba, Shopnbc.com
	11	DATED:	•	KAYE SCHOLER LLP
	12			By Aaron Strife
11p	13			Aaron Stiefel
Hennigan, Bennett & Dorman llp lawyers los angeles, california	14			Attorneys for Defendant B & H Foto & Electronics Corporation
ott 6 Vers . callfo	15			B & H Foto & Electronics Corporation
Benne law angeles	16	DATED:		MORGAN, LEWIS & BOCKIUS LLP
nigan, Jos	17			Ву
Henr	18			Michael J. Lyons
	19			Attorneys for Defendant Hewlett-Packard Company
	20	DATED:		TURNER BOYD LLP
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	22			By Karen Boyd
	23			•
	24			Attorneys for Defendant Redcats USA, Inc.
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		Case No. 09-CV-04479-JSW		-5- JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

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			** a * a ! m=a
	1	DATED:	K & L GATES
	2		Ву
	3		Cristofer I. Leffler
	4		(Admitted Pro Hac Vice)
	5		Attorneys for Defendant Recreational Equipment, Inc.
	6	DATED:	RADER, FISHMAN & GRAUER, PLLC
	7	·	_
	8		ByThomas E. Bejin
	9		Attorneys for Defendant
÷	10		Value Vision International, Inc., dba, Shopnbc.com
	11	DATED:	KAYE SCHOLER LLP
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ď.	13		ByAaron Stiefel
man 1	14		
Hennigan, Bennett & Dorman 11p lawers los argeles, californis	15	· ·	Attorneys for Defendant B & H Foto & Electronics Corporation
Bennet lawe mgeles,	16	DATED:	MORGAN, LEWIS & BOCKIUS LLP
igan, los	17		Brand
Непп	18		Michael J. Lyons
	19		Attorneys for Defendant Hewlett-Packard Company
	20	DATED:	TURNER BOYD LLP
•	21		<del></del> .
	22	·	By Karen Boyd
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	24		Attorneys for Defendant Redcats USA, Inc.
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		Case No. 09-CV-04479-JSW	JOINT STIPULATION AND [PROPOSED] ORDER STAYING ACTION

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#### Case3:09-cv-04479-JSW Document48 Filed11/16/09 Page21 of 24

	1 2 3	DATED: November 13, 2009 K	& L GATES  Michael J. Bettinger			
	4 5	R	attorneys for Defendant Letail Convergence, Inc., dba, martbargains.com			
	6					
	7	PURSUANT TO STIPULATION, THE COU	JRT ORDERS AS FOLLOWS:			
	8	All proceedings in this Action, including discovery, shall be stayed until such time as both (i)				
	9	the reexamination of the '360 patent is resolved and (ii) judgment or an order dismissing the Wal-				
	10	Mart Action is entered. After final resolution of the reexamination of the '360 patent and an entry of				
	11	judgment in the Wal-Mart Action or an order dismissing the Wal-Mart Action, the Court will				
	12	determine, with input from the parties, how the individual Defendants in this Action are to be tried.				
	13	Until then, this Action shall trail the Wal-Mart Action.				
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los angeles, california	15	DATED: November 30, 2009	Jeffry Swhits			
os angel	16		Hon. Leffley S. White United States District Judge			
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