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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AEROSCOUT INC., )  
)  
Plaintiff(s), )  
v. )  
SAVI TECHNOLOGY INC., )  
)  
Defendant(s). )

No. C08-2919 WHA (BZ)

**SETTLEMENT CONFERENCE  
ORDER - PATENT CASE**

The above matter was referred to me for settlement purposes.

It is **ORDERED** that a Settlement Conference is scheduled for **Tuesday, February 10, 2009 at 9:00 a.m.** in Courtroom G, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. Counsel who will try the case shall appear at the Settlement Conference with the party principals who met earlier. The negotiations will be principally among the party principals in my presence.

Each party shall provide the other informally,

1 expeditiously and pursuant to Federal Rule of Evidence 408 with  
2 all information reasonably needed to further the progress of  
3 the settlement negotiations. Confidential information may be  
4 provided subject to a protective order.

5 Each party shall prepare a Settlement Conference  
6 Statement, which must be served on opposing counsel and lodged  
7 (not faxed) with my chambers no later than seven calendar days  
8 prior to the conference. The Statement shall **not** be filed with  
9 the Clerk of the Court. The Statement **may** be submitted on CD-  
10 ROM with hypertext links to exhibits. Otherwise, the portion  
11 of exhibits on which the party relies **shall** be highlighted.  
12 The Settlement Conference Statement shall not exceed ten pages  
13 of text and twenty pages of exhibits and shall include the  
14 following:

- 15 1. A brief statement of the facts of the case.
- 16 2. A brief statement of the claims and defenses  
17 including, but not limited to, statutory or other grounds upon  
18 which the claims are founded.
- 19 3. A summary of any related litigation.
- 20 4. A summary of the proceedings to date and any pending  
21 motions.
- 22 5. An estimate of the cost and time to be expended for  
23 further discovery, pretrial and trial.
- 24 6. The relief sought, including an itemization of  
25 damages.
- 26 7. The parties' position on settlement, including  
27 present demands and offers and a history of past settlement  
28 discussions. The Court's time can best be used to assist the

1 parties in completing their negotiations, not in starting them.  
2 So there is no confusion about the parties' settlement  
3 position, plaintiff must serve a demand in writing no later  
4 than fourteen days before the conference and defendant must  
5 respond in writing no later than eight days before the  
6 conference. The parties are urged to carefully evaluate their  
7 case before taking a settlement position since extreme  
8 positions hinder the settlement process.

9 Along with the Statement each party shall lodge with the  
10 court a document of no more than three pages containing a  
11 **candid** evaluation of the parties' likelihood of prevailing on  
12 the claims and defenses, and any other information that party  
13 wishes not to share with opposing counsel. The more candid the  
14 parties are, the more productive the conference will be. This  
15 document shall not be served on opposing counsel.

16 It is not unusual for conferences to last three or more  
17 hours. Parties are encouraged to participate and frankly  
18 discuss their case. Statements they make during the conference  
19 will not be admissible at trial in the event the case does not  
20 settle. The parties should be prepared to discuss such issues  
21 as:

- 22 1. Their settlement objectives.
- 23 2. Any impediments to settlement they perceive.
- 24 3. Whether they have enough information to discuss  
25 settlement. If not, what additional information is needed.
- 26 4. The possibility of a creative resolution of the  
27 dispute.

28 The parties shall notify chambers immediately if this case

1 settles prior to the date set for settlement conference.  
2 Counsel shall provide a copy of this order to each party who  
3 will participate in the conference.

4 Dated: December 16, 2008

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6 Bernard Zimmerman  
United States Magistrate Judge

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