

1 UNITED STATES DISTRICT COURT
2 Northern District of California

3
4 NUANCE COMMUNICATIONS, INC.,

5 Plaintiff,

6 v.

7 ECOPY, INC.,

8 Defendants.

No. C 08-4227 JSW (MEJ)
Consolidated with C 08-4942 JSW (MEJ)

**ORDER RE: SEPTEMBER 23, 2010
JOINT LETTER
(DKT. #208)**

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10 On September 23, 2010, the parties submitted a joint discovery dispute letter, (Dkt. #208),
11 regarding the undersigned's August 4, 2009 Order, which limited discovery to issues surrounding
12 claim construction until after Judge White issued his Order construing disputed claims (Dkt. #115).
13 In the present letter, Plaintiff now seeks an order permitting the parties to proceed with full
14 discovery, stating that Judge White's rulings at the July 2, 2010 case management conference
15 necessitates modification of the Court's previous order. At the CMC, Judge White ordered that the
16 Markman hearing take place on February 2, 2011, and that following his claim construction order,
17 there will be a post-Markman CMC, (RT 8:2-3, 40:10-12, Dkt. #199). At the CMC, counsel for
18 Plaintiff expressed concern about having no opportunity to conduct discovery as to liability and
19 damages; however, Judge White stated that Plaintiff would have the opportunity to "litigate every
20 appropriate issue in the case" and indicated that the propriety of full discovery would be revisited at
21 the post-Markman CMC. (RT 38:16-40:12, Dkt. #199.)

22 Accordingly, based upon the clear intention of Judge White, the Court DENIES Plaintiff's
23 request to modify its August 4, 2009 order. Plaintiff will have the opportunity to conduct discovery
24 as to liability and damages following Judge White's claim construction order, if appropriate.

25 **IT IS SO ORDERED.**

26 Dated: September 28, 2010

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Maria-Elena James
Chief United States Magistrate Judge