

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
MOUNTAIN VIEW

1 JEFFREY A. TINKER (*PRO HAC VICE*)  
 jtinker@winstead.com  
 2 Winstead PC  
 500 Winstead Building  
 3 2728 N. Harwood Street  
 Dallas, Texas 75201

4 JOSEPH A. GRECO (Cal. Bar No. 104476)  
 jgreco@beckllp.com  
 5 KIMBERLY P. ZAPATA (Cal. Bar No. 138291)  
 6 kzapata@beckllp.com  
 Beck, Bismonte & Finley, LLP  
 7 150 Almaden Boulevard, 10th Floor  
 San Jose, CA 95113  
 8 Telephone: 408.938.7900  
 Facsimile: 408.938.0790

CHARLENE M. MORROW (CSB No. 136411)  
 cmorrow@fenwick.com  
 HECTOR J. RIBERA (CSB No. 221511)  
 hribera@fenwick.com  
 BRIAN E. LAHTI (CSB No. 278951)  
 blahti@fenwick.com  
 FENWICK & WEST LLP  
 Silicon Valley Center  
 801 California Street  
 Mountain View, CA 94041  
 Telephone: 650.988.8500  
 Facsimile: 650.938.5200

Attorneys for Defendant and  
 Counterclaimant  
 ZOOSK, INC.

9 Attorneys for Plaintiff and Counterclaim-  
10 Defendant GEOTAG, INC.

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

15 GEOTAG, INC.,  
 16 Plaintiff,  
 17 v.  
 18 ZOOSK, INC.,  
 19 Defendant.  
 20 AND RELATED COUNTERCLAIMS.

Case No.: 13-cv-00217-EMC

**STIPULATION AND [PROPOSED]  
 ORDER TO CONTINUE CASE  
 MANAGEMENT CONFERENCE AND  
 STAY OF CASE**

Current CMC Date: April 30, 2015  
 Requested CMC Date: TBD

22 This case presently is scheduled for a Case Management Conference on Thursday, April  
 23 30, 2015. The Joint Case Management Conference Statement is due on April 23, 2015. The  
 24 parties respectfully request that the Court continue the Case Management Conference until  
 25 sometime after the completion of appellate review of the summary judgment order entered in the  
 26 related case *Microsoft Corp. and Google v. GeoTag, Inc.*, Case No. 1:11-cv-175 (RGA) (D. Del.)  
 27  
 28

1 (“Delaware Action), currently on appeal to the Federal Circuit in the case entitled *Microsoft v.*  
2 *GeoTag, Inc.*, Case No. 15-1140.

3 1. In April 2014, the District of Delaware issued an order denying Google’s motions for  
4 summary judgment of laches and invalidity and granting Google’s motion for noninfringement,  
5 involving the same GeoTag patent involved in this case. The public version of the Court’s  
6 Memorandum Opinion is Dkt. No. 477, filed April 22, 2014.

7 2. On October 6, 2014, this Court entered the Stipulation and Proposed Order to Continue  
8 Case Management Conference and Stay of Case (Dkt. No. 219), ordering the case management  
9 conference continued until April 30, 2015, and the case stayed until then, so that the Court and  
10 the parties could know the outcome of the appellate review of the summary judgment order  
11 entered in the Delaware Action.

12 3. Final judgment in the Delaware Action was entered on October 7, 2014 (Dkt. No. 521)  
13 after the Delaware court granted a stipulation of dismissal as to Microsoft on October 1, 2014  
14 (Dkt. No. 518). GeoTag thereafter appealed the judgment to the Federal Circuit, Case No. 15-  
15 1140 (entitled *Microsoft Corp. v. GeoTag, Inc.*) on November 6, 2014 (Dkt. No. 522). GeoTag  
16 has filed its opening brief in the Federal Circuit. Google’s opposition is due on June 19, 2015.  
17 No hearing date has been set.

18 4. The parties in this case believe that it makes sense for the parties and the Court to know  
19 the outcome of the appellate adjudication of the summary judgments order in the Delaware  
20 Action before proceeding with this case because the Federal Circuit’s ruling will likely be  
21 instructive on issues posed in this action and may even be dispositive of this action. Further, a  
22 stay of proceedings until the Federal Circuit rules on GeoTag’s appeal will promote judicial  
23 economy by likely bringing finality and certainty to issues regarding claim construction and  
24 infringement. Many of the same claim terms that are proposed for construction in this action  
25 were construed in the Delaware Action. The Federal Circuit’s ruling on those constructions will  
26 therefore directly impact this action. Additionally, the claims terms that are the basis for those  
27 summary judgment orders (“dynamic replication” and “geographical areas”) are also a basis for  
28 Zoosk’s non-infringement defense in this action.

1 In the alternative, if the Court does not stay this action pending appeal, it could cost both  
2 the Court and the parties substantial resources. The parties would likely complete claim  
3 construction, fact discovery, expert reports, and dispositive motions before a ruling from the  
4 Federal Circuit. These exercises could be for naught depending on the Federal Circuit’s ruling.  
5 As such, in the context of concurrent patent infringement lawsuits involving the same patents,  
6 courts frequently stay all proceedings following an appeal of one of the related cases to the  
7 Federal Circuit. See e.g., *Phonometrics, Inc. v. Economy Inns of America*, 349 F.3d 1356, 1360  
8 (Fed. Cir. 2003) (acknowledging that the “district court twice stayed the present actions pending  
9 our decisions in *Northern Telecom* and *Choice Hotels*, respectively”); *Smithkline Beecham Corp.*  
10 *v. Apotex Corp.*, 2004 WL 1615307, \*7 (E.D. Pa. 2004) (staying consolidated action against non-  
11 Apotex defendants pending review of ruling from Apotex case); *Rosenthal Collins Group, LLC v.*  
12 *Trading Tech. Int’l, Inc.*, 2009 WL 3055381 (N.D. Ill. 2009) (staying case because “it makes little  
13 sense to proceed further on the merits of the underlying patent infringement dispute” until the  
14 Federal Circuit rules on claim construction issues in other actions that “may affect the direction of  
15 this case”).

16 Accordingly, the parties to this action hereby respectfully request that the Court continue  
17 the Case Management Conference currently scheduled to take place on April 30, 2015 until  
18 sometime after the completion of the appellate review of the summary judgment orders entered in  
19 related case *Microsoft Corp. and Google v. GeoTag, Inc.*, Case No. 1:11-cv-175 (RGA) (D. Del.)  
20 and Federal Circuit Case No. 15-1140 (entitled *Microsoft Corp. v. GeoTag, Inc.*), or to a future  
21 date convenient to the Court, and to continue the stay of this case until that continued Case  
22 Management Conference.

23 **SO STIPULATED.**

24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

BECK, BISMONTE & FINLEY, LLP

Dated: April 23, 2015

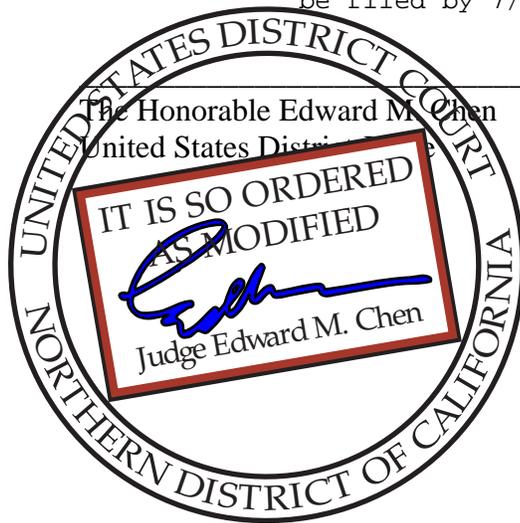
By: /s/ Joseph A. Greco  
Joseph A. Greco  
Attorneys for Plaintiff and Counterclaim-  
Defendant  
GeoTag, Inc.

FENWICK & WEST LLP

By: /s/ Brian E. Lahti  
Brian E. Lahti  
Attorneys for Defendant and  
Counterclaimant  
Zoosk, Inc.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.** The CMC is reset for  
7/30/2015 at 10:30 a.m. An  
updated joint CMC statement shall  
be filed by 7/23/2015.

Dated: 4/28/15



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION PURSUANT TO LOCAL RULE 5-1(i)(3)**

Pursuant to Local Rule 5-1(i)(3), regarding signatures, I attest that the concurrence in the filing of this document has been obtained from its signatories.

Dated: April 23, 2015

By: /s/ Joseph A. Greco  
Joseph A. Greco  
Attorney for Plaintiff and Counterclaim-  
Defendant GeoTag, Inc.

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
MOUNTAIN VIEW