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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASETEK A/S,
Plaintiff,
v.
CMI USA, INC.,
Defendant.

Case No. 13-cv-00457-JST

PRETRIAL ORDER RE JURY ISSUES

In further preparation for the scheduled jury trial, the Court ORDERS the creation of a joint juror notebook, the requirements of which are identified below. In addition, the parties are advised that the Court is considering modifications to the normal presentation of evidence given the technical nature of the issues to be presented to the jury, as stated below.

First, the Court is considering showing the Federal Judicial Center's video entitled "The Patent Process: An Overview for Jurors" to the jury. Counsel are to advise whether they have any objection. The video may be viewed on the FJC's YouTube channel at <http://youtu.be/ax7QHQTbKQE>.

Second, the parties shall meet and confer in developing a joint juror notebook. The Court will review the proposed juror notebook with the parties at the pre-trial conference scheduled for November 14, 2014, and resolve any disagreements. Once approved, the parties shall provide sufficient notebooks for each juror, plus two. The Court will add its own cover page for the front of the notebook. The notebook should include the following components/tabs:

1. An empty sheet protector in which the Court can insert a page with a warning regarding use of social media and duties of jurors;
2. Index;
3. Loose leaf paper for note taking;

United States District Court
Northern District of California

- 1 4. Glossary of technical terms;
- 2 5. Photographs of each witness. Each party will be responsible for taking a photograph of
3 each witness testifying in its case in chief outside the Courtroom immediately before
4 the witness testifies. The witness' appearance must be the same in the photograph as
5 on the witness stand (i.e., the same clothing, hairstyle, and eyewear). At the time of
6 trial, the parties shall provide the Courtroom Deputy with eleven (11) copies of each
7 photograph, printed on three-hole-punched, 8 1/2" x 11" paper. The photograph size
8 itself should be at least 4" by 6". The Courtroom Deputy will distribute the
9 photographs for placement in the juror binders;
- 10 6. Color-coded handouts identifying the specific language of the claims that are at issue in
11 the patents and their import to the action. See, e.g., Oracle Am., Inc. v. Google, Case
12 No. 10-cv-3561-WHA, ECF No. 633. The handouts should also include any
13 constructions by the Court or to which the parties have stipulated. Alternatively, a
14 chart may be a better mechanism for communicating that particular information;
- 15 7. A common timeline of events, if appropriate and useful;
- 16 8. Copies of the patents (on double-sided paper). The copies of the patents should
17 highlight or box the claims at issue;
- 18 9. A copy of the Patent Example referenced in the FJC video to be played to the jurors, a
19 copy of which can be found at
20 [http://www.fjc.gov/public/pdf.nsf/lookup/PatentSystemSample2.pdf/\\$file/PatentSystemSample2.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/PatentSystemSample2.pdf/$file/PatentSystemSample2.pdf);
21 and
- 22 10. Final jury instructions (to be provided later).

23 The parties should feel free to suggest additional content for the juror notebooks.

24 Third, the Court is considering whether: (i) to allow "mini-arguments" during trial; (ii) to
25 require the parties to present each side's experts on a particular topic back-to-back; (iii) to allow
26 jurors to discuss the evidence during the case as it is being presented; and (iv) to allow jurors to
27 ask questions during the trial. The parties should meet and confer on these issues; a joint
28 recommendation will carry more weight with the Court than will competing proposals.

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Lastly, the Court intends to seat nine jurors, not eleven as stated at the October 15, 2014 case management conference.

IT IS SO ORDERED.

Dated: October 16, 2014



JON S. TIGAR
United States District Judge