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2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 SONG FI, INC, et al.,
6 Plaintiffs,
7 v.
8 GOOGLE, INC., et al.,
9 Defendants.

Case No. 14-cv-05080-CW

MINUTE ORDER AND CASE
MANAGEMENT ORDER

10 Clerk: Jean Ballard

11 Plaintiff Attorney: Edward Lyle; Ronald Wick

12 Defendant Attorney: Brian Willen

13 A case management conference was held on: 2/23/16. The Case
14 Management Statement and Proposed Order filed by the parties is
15 hereby adopted by the Court as the Case Management Order for the
16 case, except as may be noted below. The Court's standard Order for
17 Pretrial Preparation, distributed at the conference, also applies.

18 The case is hereby referred to the following ADR process:

19 Non-binding Arbitration: ☐ Early Neutral Evaluation: ☐

20 Court-connected mediation: ☐

21 Private mediation: ☐

22 Magistrate Judge (random) settlement conference: ☒ to be
23 completed within 90 days.

24 ADR session to be held by:

25 (or as soon thereafter as is convenient to the mediator's schedule)

26 Deadline to add additional parties or claims:

27 Date of next case management conference:

28 Completion of Fact Discovery:

1 Plaintiffs' Expert Designations: 10/17/16
2 Defendants' Expert Designations: 11/16/16
3 Plaintiffs' Rebuttal Expert Designations: 12/16/17
4 Completion of Expert Discovery: 2/1/17
5 Further case management conference, and all case-dispositive
6 motions, to be heard at 2:30 P.M. on or before: 3/27/17
7 Final Pretrial Conference at 2:30 P.M. on: 6/15/17
8 An 8 day jury Trial will begin at 8:30 A.M. on: 7/17/17

9 **Discovery disputes** will be referred to a Magistrate Judge. After
10 the parties have met and conferred, the parties shall prepare a
11 joint letter of not more than 8 pages explaining the dispute. Up
12 to 12 pages of attachments may be added. The joint letter must be
13 electronically filed under the Civil Events category of "Motions
14 and Related Filings >Motions-- General > Discovery Letter Brief."
15 The Magistrate Judge to whom the matter is assigned will advise the
16 parties of how that Judge intends to proceed. The Magistrate Judge
17 may issue a ruling, order more formal briefing, or set a telephone
18 conference or a hearing. After a Magistrate Judge has been
19 assigned, all further discovery matters shall be filed pursuant to
20 that Judge's procedures.

21 **Motions for Summary Judgment:** Absent permission from the Court, all
22 case-dispositive motions in a case will be briefed and heard
23 together, on the case-dispositive motion hearing cut-off date, or
24 on an earlier available date agreed to by the parties. Multiple
25 parties should file joint briefs if possible. If Plaintiffs wish
26 to file a motion for summary judgment, they shall do so 6 weeks
27 before the cut-off date. If Defendants wish to file a cross-motion
28 as well as an opposition to the motion, any cross-motion shall be
contained within the opposition to the motion, which may contain up
to 25 pages in total, and shall be filed 14 days after the filing
of the motion. The reply to the motion shall include the
opposition to any cross-motion, may contain up to 15 pages in
total, and shall be filed 7 days after the filing of the
opposition. A reply to any cross-motion may contain up to 15
pages, and shall be filed 7 days after the filing of the
opposition. If Plaintiffs do not file a motion for summary
judgment, Defendants may file one 5 weeks before the case-
dispositive motion hearing cut-off date and the schedule in Local
Rule 7-3 shall apply. Courtesy copies of multi-page exhibits for
chambers should be clearly marked with tabbed dividers.

Civil motion calendar is conducted on Tuesdays at 2:30 p.m. Parties need not reserve a hearing date for civil motions; however, parties must check the legal newspapers or the Court's website at www.cand.uscourts.gov for unavailable dates.

A Further Case Management Conference will be held on the case-dispositive motion hearing cut-off date, whether or not dispositive motions are filed.

Dated: 3/3/16



CLAUDIA WILKEN
United States District Judge

ORDER FOR PRETRIAL PREPARATION

PRETRIAL CONFERENCE

1. Not less than 28 days prior to the pretrial conference, counsel shall exchange (but not file or lodge) the papers described in Civil L.R. 16-10(b)(7),(8),(9), and (10), and their motions in limine.

2. At least 21 days before the final pretrial conference, lead counsel who will try the case shall meet and confer with respect to:

(a) Preparation and content of the joint pretrial conference statement;

(b) Resolution of any differences between the parties regarding the preparation and content of the joint pretrial conference statement and the preparation and exchange of pretrial materials to be served and lodged pursuant to this Order for Pretrial Preparation. To the extent such differences are not resolved, the parties will present the issues in the pretrial conference statement so that the judge may rule on the matter during the pretrial conference; and

(c) Settlement of the action.

3. Not less than 14 days prior to the pretrial conference, counsel shall submit the following.

(a) Pretrial Conference Statement. The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of

1 the substance of claims and defenses which remain to be decided.

2 (B) Relief Prayed. A detailed statement of all the
3 relief claimed, particularly itemizing all elements of damages
4 claimed.

5 (2) The Factual Basis of the Action.

6 (A) Undisputed Facts. A plain and concise statement of
7 all relevant facts not reasonably disputed.

8 (B) Disputed Factual Issues. A plain and concise
9 statement of all disputed factual issues which remain to be
10 decided.

11 (C) Agreed Statement. A statement assessing whether
12 all or part of the action may be presented upon an agreed
13 statement of facts.

14 (D) Stipulations. A statement of stipulations
15 requested or proposed for pretrial or trial purposes.

16 (3) Disputed Legal Issues. Without extended legal
17 argument, a concise statement of each disputed point of law
18 concerning liability or relief.

19 (4) Further Discovery or Motions. A statement of all
20 remaining discovery or motions.

21 (5) Trial Alternatives and Options.

22 (A) Settlement Discussions. A statement summarizing
23 the status of settlement negotiations and indicating whether
24 further negotiations are likely to be productive.

25 (B) Consent to Trial Before a Magistrate Judge. A
26 statement whether the parties consent to a court or jury trial
27 before a magistrate judge, with appeal directly to the Ninth
28 Circuit.

1 (C) Bifurcation, Separate Trial of Issues. A statement
2 of whether bifurcation or a separate trial of specific issues is
3 feasible and desired.

4 (6) Miscellaneous. Any other subjects relevant to the
5 trial of the action, or material to its just, speedy and
6 inexpensive determination.

7 (b) Exhibit List and Objections. The exhibit list
8 shall list each proposed exhibit by its number (see Civil L.R. 30-
9 2(b)), description, and sponsoring witness, followed by blanks to
10 accommodate the date on which it is marked for identification and
11 the date on which it is admitted into evidence. No party shall be
12 permitted to offer any exhibit in its case-in-chief that is not
13 disclosed in its exhibit list without leave of the Court for good
14 cause shown. Parties shall also deliver a set of premarked
15 exhibits to the Courtroom Deputy. The exhibit markers shall each
16 contain the name and number of the case, the number of the
17 exhibit, and blanks to accommodate the date admitted and the
18 Deputy Clerk's initials. (Appropriate sample forms are available
19 on the Court's website at www.cand.uscourts.gov). Any objections
20 to exhibits which remain after the pretrial meeting shall be
21 indicated in the pretrial statement.

22 (c) Witness List. In addition to the requirements of
23 FRCivP 26(a)(3)(A), a brief statement describing the substance of
24 the testimony to be given by each witness who may be called at
25 trial. No party shall be permitted to call any witness in its
26 case-in-chief who is not disclosed in its pretrial statement
27 without leave of Court for good cause shown.

28 (d) Use of Discovery Responses. In addition to the

1 requirements of FRCP 26(a)(3)(B), a designation of any excerpts
2 from interrogatory answers or from responses for admissions
3 intended to be offered at trial. Counsel shall indicate any
4 objections to use of these materials and that counsel have
5 conferred respecting such objections.

6 (e) Trial briefs. Briefs on all significant disputed
7 issues of law, including foreseeable procedural and evidentiary
8 issues, which remain after the pretrial meeting.

9 (f) Motions in Limine. Any motions in limine that
10 could not be settled at the pretrial meeting shall be filed with
11 the pretrial statement. All motions in limine shall be contained
12 within one document, limited to 25 pages pursuant to Civil L.R. 7-
13 2(b), with each motion listed as a subheading. Opposition to the
14 motions in limine shall be contained within one document, limited
15 to 25 pages, with corresponding subheadings, and filed seven (7)
16 days thereafter.

17 (g) Joint Proposed Voir Dire. The attached voir dire
18 questionnaire will be given to the venire members, and copies of
19 the responses will be made available to counsel at the beginning
20 of voir dire. Counsel may submit a set of additional requested
21 voir dire, to be included in the questionnaire or posed by the
22 Court, to which they have agreed at the pretrial meeting. Any
23 voir dire questions on which counsel cannot agree shall be
24 submitted separately. Counsel may be allowed brief follow-up voir
25 dire after the Court's questioning.

26 (h) Joint Proposed Jury Instructions. As applicable,
27 jury instructions §1.1A, §1.1C, §1.2 through §1.17, §1.19, §2.1
28 through §2.13, §3.1 through §3.3 from the Manual of Model Civil

Jury Instructions for the Ninth Circuit (most recent edition) will be given absent objection. Counsel shall jointly submit one set of additional proposed jury instructions, to which they have agreed at the pretrial meeting. The instructions shall be ordered in a logical sequence, together with a table of contents. Any instruction on which counsel cannot agree shall be marked as "disputed," and shall be included within the jointly submitted instructions and accompanying table of contents, in the place where the party proposing the instruction believes it should be given. Argument and authority for and against each disputed instruction shall be included as part of the joint submission, on separate pages directly following the disputed instruction.

The parties shall email to cwpo@cand.uscourts.gov a copy of their proposed jury instructions in WordPerfect or Word format. The subject of the email should include the name of the parties, the case number and a description of the document.

(i) Proposed Verdict Forms, Joint or Separate.

(j) Proposed Findings of Fact and Conclusions of Law (Court Trial only). The Court requests that the parties hyperlink each proposed Finding of Fact to any supporting evidence. The parties shall email to cwpo@cand.uscourts.gov a copy of their proposed findings of fact and conclusions of law in WordPerfect or Word format. The subject of the email should include the name of the parties, the case number and a description of the document.

JURY SELECTION

The Jury Commissioner will summon 20 to 25 prospective jurors. The Courtroom Deputy will select their names at random and seat them in the courtroom in the order in which their names

1 are called. Copies of their questionnaires will be provided to
2 counsel.

3 Voir dire will be asked of sufficient venire persons so that
4 eight (or more for a lengthy trial) will remain after all
5 peremptory challenges and an anticipated number of hardship
6 dismissals and cause challenges have been made.

7 The Court will then take cause challenges, and discuss
8 hardship claims from the individual jurors, outside the presence
9 of the venire. The Court will inform the attorneys which hardship
10 claims and cause challenges will be granted, but will not announce
11 those dismissals until the process is completed. Each side may
12 then list in writing up to three peremptory challenges. The
13 attorneys will review each other's lists and then submit them to
14 the Courtroom Deputy.

15 Then, from the list of jurors in numerical order, the Court
16 will strike the persons with meritorious hardships, those excused
17 for cause, and those challenged peremptorily, and call the first
18 eight people in numerical sequence remaining. Those people will
19 be the jury.

20 All jurors remaining at the close of the case will
21 deliberate. There are no alternates.

22 SANCTIONS

23 Failure to comply with this Order is cause for sanctions
24 under Federal Rule of Civil Procedure 16(f).

25 IT IS SO ORDERED.

26 Dated: 3/3/16



CLAUDIA WILKEN
United States District Judge

JUROR QUESTIONNAIRE

Please fill out this form as completely as possible and print clearly. Since we want to make copies for the attorneys and the Court, do not write on the back of any page. If you need more room, continue at the bottom of the page. Thank you for your cooperation.

1. Your name: _____

2. Your age: _____

3 The city where you live: _____

How long have you lived there: _____

4. Your place of birth: _____

5. Do you rent or own your own home? _____

6. Your marital status: (circle one)

single married live with partner separated divorced widowed

7. What is your occupation, and how long have you worked in it?

(If you are retired, please describe your main occupation when you were working).

8. Who is (or was) your employer?

9. How long have you worked for this employer? _____

10. Please list the occupations of any adults with whom you live.

11. If you have children, please list their ages and sex and, if they are employed, please give their occupations.

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12. Please describe your educational background:
- Highest grade completed: _____
- College and/or vocational schools you have attended: _____
- Major areas of study: _____
13. Have you ever served on a jury before? _____ How many times? _____
- If yes: State/County Court _____ Federal Court _____
- When? _____
- Was it a civil or criminal case? _____
- Did the jury(ies) reach a verdict? _____
14. Attached is a list of the parties in this case, the law firms representing the parties, attorneys in this case, and persons who are potential witnesses in this case. Do you know, or think you know, any of the persons listed?
- Yes: _____ No: _____
- If so, make a check next to their name.