

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PACE ANTI-PIRACY, INC.,  
Plaintiff,  
v.  
INSIDE SECURE, et al.,  
Defendants.

Case No.17-cv-05860-HSG

**ORDER DIRECTING SUPPLEMENTAL  
BRIEFING ON RECENT FEDERAL  
CIRCUIT DECISION**

Re: Dkt. No. 37

United States District Court  
Northern District of California

Pending before the Court is a motion to dismiss by Defendants Inside Secure S.A. and Inside Secure Corp. Dkt. No. 37. On February 8, 2018, after briefing on the motion was complete, the Federal Circuit decided Berkheimer v. HP Inc., No. 2017-1437, -- F.3d --, 2018 WL 774096 (Fed. Cir. Feb. 8, 2018). Berkheimer may impact the analysis to be applied at the motion to dismiss stage under the second step of the standard set forth in Alice Corp. Pty. Ltd. v. CLS Bank International, 134 S. Ct. 2347 (2014).

//  
//  
//  
//  
//  
//  
//  
//  
//  
//

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

Accordingly, the parties are **DIRECTED** to submit simultaneous supplemental briefs, not to exceed five pages, addressing whether, in light of Berkheimer, the inventive concept determination of Alice step two can be made in this case on a motion to dismiss. The briefs must be submitted by March 23, 2018. The March 22, 2018 hearing on the motion to dismiss is **VACATED**, and unless otherwise ordered the motion will be taken under submission once the supplemental filings are submitted.

**IT IS SO ORDERED.**

Dated: 3/16/18

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge