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**FILED**

JUL 14 2005

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DIGITAL ENVOY, INC.,  
  
Plaintiff/Counterdefendant,  
  
v.  
  
GOOGLE, INC.,  
  
Defendant/Counterclaimant.

Case No. C 04 01497 RS

RS

**STIPULATION AND [PROPOSED]  
ORDER RE: AMENDING SCHEDULING  
ORDER**

Digital Envoy, Inc. (“Digital Envoy”) and Google Inc. (“Google”) submit, through their counsel of record, this stipulation and proposed order to amend the Case Scheduling Order entered by the Court in this matter on August 27, 2004, and amended by Order of the Court on April 11, 2005.

1. Digital Envoy has moved to compel further responses from Google to certain of Digital Envoy’s discovery requests;
2. Digital Envoy’s motions to compel remain pending before the Court;
3. Digital Envoy contends that the upcoming dates for expert disclosure and discovery are related to and will be affected by the Court’s rulings on Digital Envoy’s motions to compel on which the Court has not yet ruled;
4. Digital Envoy, therefore, respectfully requests, and Google does not object, that the Court amend the Scheduling Order as follows:
  - a. On or before **July 28, 2005**, plaintiff shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
  - b. On or before **August 12, 2005**, defendant shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
  - c. On or before **September 12, 2005**, all discovery of expert witnesses pursuant to Federal Rule of Civil Procedure 26(b)(4) shall be completed.

The Case Scheduling Order, as amended by the Court, shall otherwise remain unchanged and in full force and effect.

After the Court rules (or, if necessary, before, if the Court has not yet ruled) on Digital Envoy’s pending motions to compel, the parties may stipulate to an additional extension of these dates (or so move the Court based upon a showing of good cause if they cannot reach agreement) based on the Court’s rulings.

IT IS SO STIPULATED.

DATED: July 13, 2005

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By \_\_\_\_\_ -s-  
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Attorneys for DIGITAL ENVOY, INC.

DATED: July 13, 2005

WILSON SONSINI GOODRICH & ROSATI PC

By \_\_\_\_\_ -s-  
DAVID H. KRAMER  
STEPHEN C. HOLMES  
Attorneys for GOOGLE INC.


**ORDER**

Based on the parties' stipulation and good cause appearing, IT IS ORDERED THAT:

1. On or before **July 28, 2005**, plaintiff shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
2. On or before **August 12, 2005**, defendant shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
3. On or before **September 12, 2005**, all discovery of expert witnesses pursuant to Federal Rule of Civil Procedure 26(b)(4) shall be completed.
4. After the Court rules (or, if necessary, before, if the Court has not yet ruled) on Digital Envoy's pending motions to compel, the parties may stipulate to an additional extension of these dates (or so move the Court based upon a showing of good cause if they cannot reach agreement) based on the Court's rulings.

IT IS SO ORDERED.

DATED: 7/14/05



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HON. RICHARD SEEBORG  
United States Magistrate Judge

**CERTIFICATION**

I, P. Craig Cardon am the ECF user whose identification and password are being used to file the Stipulation and [Proposed] Order re: Amending Scheduling Order. In compliance with General Order 45.X.B I hereby attest that all parties have concurred in this filing.

DATED: July 13, 2005

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By -s-  
P. CRAIG CARDON

Attorneys for DIGITAL ENVOY, INC.