

P. CRAIG CARDON, Cal. Bar No. 168646  
 BRIAN R. BLACKMAN, Cal. Bar No. 196996  
 KENDALL M. BURTON, Cal. Bar No. 228720  
 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
 Four Embarcadero Center, 17th Floor  
 San Francisco, California 94111-4106  
 Telephone: 415-434-9100  
 Facsimile: 415-434-3947

TIMOTHY H. KRATZ (Admitted *Pro Hac Vice*)  
 LUKE ANDERSON (Admitted *Pro Hac Vice*)  
 MCGUIRE WOODS, L.L.P  
 1170 Peachtree Street, N.E., Suite 2100  
 Atlanta, Georgia 30309  
 Telephone: 404.443.5500  
 Facsimile: 404.443.5751

Attorneys for DIGITAL ENVOY, INC.

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

**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 and July 13, 2005. as follows:

1. EXPERT WITNESSES: The disclosure and discovery of expert witness opinions shall proceed as follows:

a. On or before **October 21, 2005**, plaintiff shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);

b. On or before **November 21, 2005**, defendant shall disclose expert testimony and reports in accordance with Federal Rule of Civil Procedure 26(a)(2);

c. On or before **December 21, 2005**, all discovery of expert witnesses pursuant to Federal Rule of Civil Procedure 26(b)(4) shall be completed.

2. PRETRIAL MOTIONS: All pretrial motions must be filed and served pursuant to Civil Local Rule 7. All pretrial motions shall be **heard** no later than \_\_\_\_\_ (**dated back from trial 55 days**).

3. PRETRIAL STATEMENTS: At a time convenient to both, counsel shall meet and confer to discuss preparation of a joint pretrial statement and on or before \_\_\_\_\_ (**dated back from final pre-trial conference 10 days**), counsel shall file a Joint Pretrial Statement in accordance with the Court’s Standing Order For Final Pretrial Conference In Jury Cases Before Magistrate Judge Richard Seeborg.

4. PRETRIAL CONFERENCE: The final pretrial conference will be held on \_\_\_\_\_, 2006 at \_\_\_\_\_, in Courtroom 4 at the United States Courthouse, 280 S. First Street, San Jose, California (at a date and time convenient with the Court’s schedule). Each party or lead counsel who will try the case shall attend personally. Counsel shall comply with the Court’s Standing Order For Final Pretrial Conference In Jury Cases Before Magistrate Judge Richard Seeborg.

5. TRIAL DATE: Trial shall commence on April \_\_, 2006 at \_\_\_\_\_, in Courtroom 4, United States Courthouse, San Jose, California (at a date and time convenient with the Court's schedule).

In all other respects the Scheduling Order remains in full force and effect. Nothing in this stipulation shall operate to re-open fact discovery or extend the period for fact discovery. Nothing in this stipulation shall prohibit any party from seeking to amend this or any subsequent Scheduling Order if it believes that such relief is warranted.

IT IS SO STIPULATED.

DATED: July 25, 2005

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By \_\_\_\_\_

P. CRAIG CARDON  
BRIAN R. BLACKMAN

TIMOTHY H. KRATZ (Admitted *Pro Hac Vice*)  
LUKE ANDERSON (Admitted *Pro Hac Vice*)  
MCGUIRE WOODS, L.L.P.  
1170 Peachtree Street, N.E., Suite 2100  
Atlanta, Georgia 30309  
Telephone: 404.443.5706  
Facsimile: 404.443.5751

Attorneys for DIGITAL ENVOY, INC.

DATED: July 25, 2005

WILSON SONSINI GOODRICH & ROSATI PC

By \_\_\_\_\_

DAVID H. KRAMER  
STEPHEN C. HOLMES  
Attorneys for GOOGLE INC.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

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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 25, 2005

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By \_\_\_\_\_

P. CRAIG CARDON

Attorneys for DIGITAL ENVOY, INC.