

FILED
DEC 1 2005
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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 DIGITAL ENVOY, INC.,
16 Plaintiff/Counterdefendant,
17 v.
18 GOOGLE, INC.,
19 Defendant/Counterclaimant.

Case No. C 04 01497 RS

^{RS}
**STIPULATION AND [PROPOSED]
ORDER RE: AMENDING SCHEDULING
ORDER**

1 Digital Envoy, Inc. ("Digital Envoy") and Google Inc. ("Google") submit, through their
2 counsel of record, this stipulation and proposed order to amend the Case Scheduling Order entered
3 by the Court in this matter on August 27, 2004, and amended by Order of the Court on October
4 21, 2005. Digital Envoy has filed a Motion to Compel, which was noticed for hearing for
5 December 5, 2005. The Court in its November 22, 2005 Order continued the hearing on Digital
6 Envoy's Motion to Compel indefinitely. Digital Envoy states that the discovery issues raised in its
7 Motion to Compel should be resolved prior to expert disclosures and the commencement of expert
8 discovery. (At the time the previous Stipulation to Amend the Scheduling Order was submitted,
9 the parties understood that the Motion to Compel would be heard prior to the date for expert
10 disclosures).

11 Digital Envoy further states that these proposed amendments to the Scheduling Order will
12 serve the interests of efficiency and economy. Google does not agree with these statements, but
13 does not oppose Digital Envoy's proposed amendment. Therefore, through their undersigned
14 counsel, Digital Envoy requests and Google does not oppose an amendment to the Scheduling
15 Order as follows:

16 EXPERT WITNESSES: The disclosure and discovery of expert witness opinions shall
17 proceed as follows:

- 18 a. On or before **January 20, 2006**, plaintiff shall disclose expert testimony and
19 reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
- 20 b. On or before **February 24, 2006**, defendant shall disclose expert testimony and
21 reports in accordance with Federal Rule of Civil Procedure 26(a)(2);
- 22 c. On or before **March 17, 2006**, all discovery of expert witnesses pursuant to Federal
23 Rule of Civil Procedure 26(b)(4) shall be completed.

24 In all other respects the Scheduling Order as amended remains in full force and effect.
25 Nothing in the parties' stipulation shall prohibit any party from seeking to amend this or any
26 subsequent Scheduling Order if it believes that such relief is warranted.

27 IT IS SO STIPULATED.

28 *[SIGNATURES ON FOLLOWING PAGE]*

