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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Netscape Communications Corp., et al.,

NO. C 06-00198 JW

Plaintiffs,

v.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
DENYING DEFENDANT'S REQUEST TO
MODIFY CASE SCHEDULE**

St. Paul Mercury Insurance Company,

Defendant.

_____ /

This case is scheduled for a Case Management Conference on March 22, 2010. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement. (hereafter, "Statement," Docket Item No. 193.) In the Statement, Defendant represents that it intends to file a motion for summary judgment and seeks a hearing date of either June 7 or 21, depending on the Court's availability. (Id. at 3.) Defendant further requests a 30-day extension of all deadlines on the ground that no hearing dates are available on the Court's calendar prior to June 7. (Id.)

In its November 23, 2009 Scheduling Order, the Court set the last date for hearing dispositive motions for September 27, 2010. (See Docket Item No. 190.) Since the June hearing date that Defendant seeks does not require extension of the Court's deadline for hearing dispositive motions, the Court finds no reason to extend any deadlines at this time. Accordingly, the Court DENIES Defendant's request to modify the November 23, 2009 Scheduling Order.

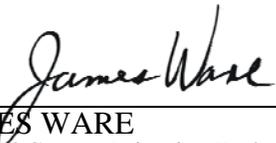
In the Statement, the parties dispute the scope of their Stipulation with respect to the schedule for filing dispositive motions. Plaintiff contends that pursuant to a Stipulation between the

1 parties, Defendants are barred from filing any further dispositive motions. (Statement at 4-5; see
2 [Proposed] Order on Case Management Conference, Docket Item No. 45.) Plaintiff further contends
3 that pursuant to the Stipulation, the parties are now in “Phase Two” of the case, which requires that
4 the parties try any remaining issues. (Id.) Defendant replies that the Stipulation does not bar it from
5 filing further dispositive motions. (Statement at 4.) The Court finds that to the extent a party
6 believes that a dispositive motion is appropriate and addresses a legal issue that has not been the
7 subject of a prior motion, the party may file such a motion. However, any motion repeating issues
8 previously raised by a party and decided by the Court may warrant an award of attorney fees and
9 costs to the other side if not made in good faith.

10 In light of this Order, the Court finds that a further Case Management Conference is
11 unnecessary at this time. Accordingly, the Court VACATES the Case Management Conference and
12 orders the parties to continue to adhere to the Court’s November 23, 2009 Scheduling Order.

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Dated: March 18, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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8 **Dated: March 18, 2010**

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

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