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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

APIO, INC., a Delaware corporation,
Plaintiff,

vs.

MANN PACKING COMPANY, INC.,
a California corporation; and DOES 1 –
10, inclusive,
Defendants.

Case No. CV 07-5628 JF

**[PROPOSED] AMENDED CASE
MANAGEMENT ORDER**

MANN PACKING COMPANY, INC.,
a California corporation,
Counterclaimant,

vs.

APIO, INC., a Delaware corporation,
Counterdefendant.

The Case Management Statement and Proposed Order is hereby amended by
the Court to have the following deadlines and the parties are ordered to comply
with the amended Case Management Order.

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Subject	Proposed Date
Final infringement contentions	March 12, 2009
Mann's disclosure of reliance on advice of counsel (if any) and production of opinion (if disclosure chosen)	March 16, 2009
Joint subsequent Case Management Statement	March 20, 2009
Subsequent Case Management Conference	March 27, 2009
Final invalidity contentions	March 30, 2009
Fact discovery cut-off	April 6, 2009
Final date for motions to compel fact discovery	April 13, 2009
Willfulness discovery cut-off	April 20, 2009
Initial expert report deadline	May 4, 2009
Rebuttal expert report deadline	May 18, 2009
Expert discovery cut-off	June 5, 2009
Motions to compel expert discovery	June 12, 2009
Dispositive motion deadline	July 10, 2009
Dispositive motion hearing	Sep. 11, 2009
Pretrial conference	Oct. 16, 2009
Trial	Nov. 13, 2009

Dated: 2/24/09


 U.S. District Court Judge

PROOF OF SERVICE
CCP §§ 1013, 1013a (New January 1, 2005)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

1. At the time of service I was over 18 years of age and **not a party to this action**.
2. My business address is: 100 Corson Street, Third Floor, Pasadena, CA 91103-3842.
3. On **February 13, 2009**, I served the following document(s):

[PROPOSED] AMENDED CASE MANAGEMENT ORDER

The documents are listed on Attachment "A."

4. I served the documents on the **persons** below, as follows:

- a. **Name** of person served:
- b. **Address** of person served:
- c. **Fax Number** or **e-mail address** of person served, if service was by fax or e-mail:
- d. Time of service, if personal service was used:

The names, addresses, and other applicable information about the persons served is on Attachment "B."

5. The documents were served by the following means (specify):

a. **By personal service.** I personally delivered the documents to the persons at the addresses listed in Item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in Item 4 and (specify one):

(1) **deposited** the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(2) **placed** the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

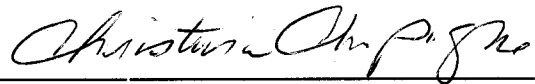
I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Pasadena, California.

c. **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in Item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

- d. **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in Item 4 and providing them to a professional messenger service for service. *(A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.)*
- e. **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in Item 4. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.
- f. **By e-mail or electronic transmission.** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed in Item 4. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- g. **By E-FILING.** The document will be E-Filed with the Court and a "Notification of E-Filing" will be e-mailed by the Court to all registered attorneys.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I further declare that I am employed in the office of a member of the bar of this Court, at whose direction the service was made.

Executed on **February 13, 2009** at Pasadena, California.



Christina Champagne

DECLARATION OF MESSENGER

- By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in Item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (date):

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on **February 13, 2009** at _____, California.

(Name of Declarant)

(Signature of Declarant)

ATTACHMENT "B" TO PROOF OF SERVICE

NAMES, ADDRESSES, AND OTHER APPLICABLE INFORMATION ABOUT PERSONS SERVED:

Name of Person Served	Address (business or residential), Fax, or E-mail (as applicable) Where Served	Manner of Service
Virginia A. Crisp, Esq.	COBLENTZ, PATCH, DUFFY & BASS LLP One Ferry Building, Suite 200 San Francisco, California 94111-4213 Fax: 415-989-1663 Email: ef-vac@cpdb.com	Email
Joseph S. Presta, Esq. Michael E. Crawford, Esq.	NIXON & VANDERHYE P.C. 901 North Glebe Road Arlington, Virginia 22203 Fax: 703-816-4100 Email: jsp@nixonvan.com ; mec@nixonvan.com	Email