

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In re Google AdWords Litigation

No. C 08-03369 JW

**SCHEDULING ORDER FOR CLASS  
DISCOVERY**

Upon filing, this case was scheduled for a case management conference on March 2, 2009. 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 and Proposed Order. Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the case management conference is VACATED. The Court finds good cause to bifurcate discovery between class and merits at this time. Accordingly, the schedule set forth below pertains only to class discovery. The parties are ordered to comply with the following schedule:

**CASE SCHEDULE**

<b>Deadline to File Consolidated Amended Complaint</b>	<b>April 6, 2009</b>
<b>Deadline to File Answer to Consolidated Amended Complaint</b>	<b>April 30, 2009</b>
<b>Close of Class Discovery</b>	<b>November 2, 2009</b>

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<b>Interim Case Management Conference</b>	<b>September 14, 2009 at 10 a.m.</b>
<b>Interim Case Management Statement</b> <i>The Statement shall update the Court on the parties' progress toward completion of class discovery and any efforts to resolve the case.</i>	<b>September 4, 2009</b>
<b>Hearing on Motion for Class Certification<sup>1</sup></b>	<b>December 7, 2009 at 9 a.m.</b>

None of the dates set in this Order may be changed without an order of the Court made after a motion is filed pursuant to the Civil Local Rules of Court.

**Standing Order to Lodge Printed Copy of "ECF" Papers**

1. In all cases, including cases covered by the Electronic Case Filing System of the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case number and be delivered on or before the close of the next court day following the day the papers are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

**Compliance with Discovery Plan and Reference to Magistrate Judge**

2. The Court adopts the Discovery Plan proposed by the parties in their Joint Case Management Statement. The parties are ordered to comply with the discovery plan. Any disputes with respect to the implementation of the discovery plan and all disclosure or discovery disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to service or joinder of parties or claims are referred to the assigned Magistrate Judge.

**Document Management During Pretrial Discovery and Electronic Evidence Presentation**

3. This Court has available a digital and video electronic evidence presentation system. Before commencement of pretrial discovery, the parties are ordered to familiarize

---

<sup>1</sup> The parties shall notice their Motion for Class Certification in accordance with the Civil Local Rules of this Court.

1 themselves with the system, and to meet and confer about whether the case will involve voluminous  
2 documentary. If so, as the parties identify documentary material which is likely to be used as trial  
3 exhibits, the parties are ordered to electronically store these materials in a fashion which will  
4 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-  
5 2(b) requires sequential numbering of exhibits during depositions and that numbering must be  
6 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked  
7 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on  
8 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;  
9 Defendant #2: 300,000-500,000).

10 **Disclosure of Expert Witnesses**

11 4. Any party wishing to present expert witness testimony with respect to a  
12 claim or a defense shall lodge with the Court and serve on all other parties the name, address,  
13 qualifications, résumé and a written report which complies with Fed. R. Civ. P. 26(a)(2)(B) **63 days**  
14 **before close of discovery.** Expert witness disclosure must be made with respect to a person who is  
15 either (a) specially retained or specially employed to provide expert testimony pursuant to  
16 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to  
17 provide expert opinion testimony.

18 5. The parties are also required to lodge any supplemental reports to which any  
19 expert will testify at trial in accordance with Fed. R. Civ. P. 26(a)(2)(B).

20 6. Any party objecting to the qualifications or proposed testimony of an expert  
21 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in  
22 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**  
23 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**  
24 **MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff  
25 date at 9:00 a.m.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

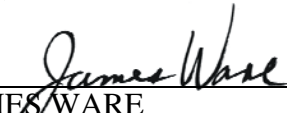
**Rebuttal Expert Witnesses**

7. If the testimony of the expert is intended solely to contradict or rebut opinion testimony on the same subject matter identified by another party, the party proffering a rebuttal expert shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(B), no later than **49 days prior to discovery cutoff.**

**Limitation on Testimony by Expert Witnesses**

8. Unless the parties enter into a written stipulation otherwise, upon timely objection, an expert witness shall be precluded from testifying about any actions or opinions not disclosed prior to the expert’s deposition. This is to ensure that all factual material upon which expert opinion may be based and all tests and reports are completed prior to the expert deposition. Unless application is made prior to the close of expert discovery, each party will be limited to calling only one expert witness in each discipline involved in the case.

Dated: February 25, 2009

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

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

- 2 Dustin Lamm Schubert [dschubert@schubertlawfirm.com](mailto:dschubert@schubertlawfirm.com)
- 3 Guido Saveri [guido@saveri.com](mailto:guido@saveri.com)
- 4 Kimberly Ann Kralowec [kkralowec@schubertlawfirm.com](mailto:kkralowec@schubertlawfirm.com)
- 5 Leo Patrick Norton [lnorton@cooley.com](mailto:lnorton@cooley.com)
- 6 Michael Graham Rhodes [rhodesmg@cooley.com](mailto:rhodesmg@cooley.com)
- 7 Peter Joel Willsey [pwillsey@cooley.com](mailto:pwillsey@cooley.com)
- 8 Willem F. Jonckheer [wjonckheer@schubert-reed.com](mailto:wjonckheer@schubert-reed.com)

9 **Dated: February 25, 2009**

**Richard W. Wieking, Clerk**

By: /s/ JW Chambers  
**Elizabeth Garcia**  
**Courtroom Deputy**

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28