

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

DANIEL C. DECARLO, SB# 160307

2 E-Mail: decarlo@lbbslaw.com

THOMAS S. KIDDE, SB# 61717

3 E-Mail: kidde@lbbslaw.com

JOSHUA S. HODAS, SB#250802

4 E-Mail: jhodas@lbbslaw.com

221 North Figueroa Street, Suite 1200

5 Los Angeles, California 90012

Telephone: 213.250.1800

6 Facsimile: 213.250.7900

7 Attorneys for Defendants System Planning  
Corporation, System Planning Corporation  
8 d/b/a/ Globaltrak, and Richard C. Meyers

9 UNITED STATES DISTRICT COURT

10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SAN JOSE DIVISION

13 IMPEVA LABS, INC.,

14 Plaintiff,

15 vs.

16 SYSTEM PLANNING  
CORPORATION, SYSTEM  
17 PLANNING CORPORATION D/B/A  
GLOBALTRAK, AND RICHARD C.  
18 MEYERS

19 Defendants.

Civil Action No. 5:12-cv-00125-EJD

**~~PROPOSED~~ ORDER GRANTING  
THIRD EXTENSION OF TIME  
FOR CASE MANAGEMENT  
CONFERENCE AND RELATED  
DATES**

21 IT IS HEREBY STIPULATED by and between the parties hereto pursuant to  
22 Local Rule 7-12, and with the approval of this Court, that the ADR deadlines, Case  
23 Management Conference and related dates, be extended from their presently noticed  
24 dates based upon the following:

25 WHEREAS, on or about March 6, 2012 the parties submitted their first  
26 stipulation to extend the time for the ADR deadlines as well as the Case  
27 Management Conference (“CMC”) and related dates, (Dkt. 21), and, on March 7,  
28 2012, the Court denied the request on the grounds that Plaintiff’s First Amended

4822-9169-8960.1

1 Complaint rendered Defendants' motion to dismiss moot; and

2 WHEREAS, thereafter on or about April 3, 2012 this Court, in response to the  
3 parties' stipulation, granted the parties' request that the ADR deadlines and CMC  
4 and related filing dates be continued due to the proximity with the hearing on  
5 Defendants' Motion to Dismiss the First Amended Complaint and the CMC, both  
6 scheduled for April 27, 2012 (Dkt. 25); and

7 WHEREAS, as a result, the Court continued the CMC from April 27 to June  
8 1, the ADR deadlines from April 6 to May 13 and the date for filing the Rule 26  
9 Report, submission of the Initial Disclosures and the Case Management Statement  
10 from April 20 to May 26, 2012; and

11 WHEREAS, on April 25, 2012 the Court continued the hearing on the  
12 motion to dismiss from April 27 to May 11, 2012 (Dkt. 28) and, thereafter, on May  
13 8, 2012, vacated the hearing and took the motion under submission without oral  
14 argument (Dkt. 29); and

15 WHEREAS, on May 15, 2012, pursuant to the parties' stipulation, the Court  
16 entered its order (Dkt. 31) ordering the ADR deadline to be continued to July 13,  
17 2012, the Rule 26(f) Report, Initial Disclosures and Case Management Statement to  
18 August 3 and the CMC to August 10, 2012.

19 WHEREAS, under the present schedule, the parties are to meet and confer  
20 regarding the Case Management Statement on or before July 13, submit the ADR  
21 Certification and Stipulation re ADR by July 13; prepare and file the Rule 26  
22 Report, Initial Disclosures and Case Management Statement by August 3; and

23 WHEREAS, it continues to be the parties belief that preparation of the Case  
24 Management Statement, Initial Disclosures and Rule 26 Report is premature at this  
25 juncture for the following reasons: (1) the Court's decision with respect to  
26 Defendants' motion to dismiss will have an impact upon virtually all of the filings in  
27 preparation for the Case Management Conference insofar as the claims that will be  
28 at issue, the discovery required as between the parties as well as third parties and

1 possibly the ADR that the parties would select as being the most efficacious; (2)  
2 Defendants have not filed an answer to the First Amended Complaint, so any  
3 affirmative defenses it may assert must await the Court's decision on the motion; (3)  
4 Defendants have made no determination as to any counterclaims or possible third  
5 party complaints as such would await the decision of the Court on the motion to  
6 dismiss; (4) the Court's determination of the motion to dismiss would also affect the  
7 application of this Court's local patent rules to this action in the event that the Court  
8 grants or denies the motion with respect to Plaintiff's causes of action for  
9 declaratory relief as to non-infringement and invalidity of the patents of Defendant  
10 System Planning Corporation;

11       Accordingly, even if the Court rules on the motion in the very near future, the  
12 foregoing issues, including the need for Defendants' responsive pleading, lead the  
13 parties to believe that to conserve judicial resources the CMC should be continued  
14 so as to permit this Court to rule on Defendants' motion and, thereafter, allow the  
15 parties to prepare for the CMC based upon this Court's ruling and the pleadings  
16 placing the matter at issue. In addition to the foregoing, as a calendar issue, counsel  
17 for Defendants is also scheduled to commence a three week trial in the Los Angeles  
18 Superior Court, Case No. PC034375, *P.C. Specialist, Inc., etc. v. Nexus IS, Inc., et*  
19 *al.* and accordingly seeks to set new dates that will permit the CMC to be held after  
20 that trial is scheduled for completion.

21       The parties therefor respectfully request that the Case Management  
22 Conference, and related filing deadlines as well as the ADR deadlines be revised as  
23 set forth below:

24	Event	Present Date	New Date
25	CMC	August 10, 2012	November 9, 2012
26			
27			
28	ADR Deadlines	July 13, 2012	October 5, 2012

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

Rule 26(f) Report;  
Initial Disclosures;  
Case Management  
Statement.                      August 3, 2012                      November 2, 2012

**IT IS SO STIPULATED.**

DATED: July 13, 2012

MICHAEL E. DERGOSITS  
IGOR SHOIKET  
DERGOSITS & NOAH LLP

By:           /s/ Michael E. Dergosits            
Michael E. Dergosits  
Attorneys for Plaintiff Impeva Labs, Inc.

DATED: July 13, 2012

DANIEL C. DECARLO  
THOMAS S. KIDDÉ  
JOSHUA S. HODAS  
LEWIS BRISBOIS BISGAARD & SMITH LLP

By:           /s/ Thomas S. Kiddé            
Thomas S. Kiddé  
Attorneys for Defendants System Planning  
Corporation, System Planning Corporation  
d/b/a/ Globaltrak, and Richard C. Meyers

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

**ORDER**

GOOD CAUSE APPEARING, IT IS ORDERED that the Case Management Conference, Initial Disclosure, Rule 26 Report and ADR deadlines are extended as set forth in the above Stipulation.

Dated: July 18, 2012



Honorable Edward J. Davila  
U.S. District Court Judge