

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01257-PAB-MEH

BIAx CORPORATION,

Plaintiff,

v.

NVIDIA CORPORATION,  
SONY COMPUTER ENTERTAINMENT AMERICA, INC., and  
SONY ELECTRONICS, INC.,

Defendants.

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**ORDER**

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Before the Court are Plaintiff's Motion to Modify Scheduling Order to Extend Expert Deadlines [filed November 30, 2010; docket #535] and Plaintiff's Motion for Expedited Consideration of its Motion to Modify Scheduling Order to Extend Expert Deadlines [filed December 8, 2010; docket #547]. These matters are referred to this Court for disposition. (Dockets ##538, 549.) For the reasons stated below, the Court **GRANTS IN PART** and **DENIES IN PART** Plaintiff's Motion to Modify. Thus, Plaintiff's Motion for Expedited Consideration is **DENIED AS MOOT**.

Plaintiff seeks, in essence, a two-month extension of the deadlines presently governing this matter. In support of this request, Plaintiff refers to this Court's recent order permitting certain discovery after the discovery deadline, to be completed by January 11, 2011. (*See* docket #523 (Order).) Defendants have not yet responded to either motion; however, pursuant to Plaintiff's representations, Defendants oppose the relief requested. After review of the motions and the governing case schedule, the Court finds that justice requires an extension of the deadlines, and

Defendants will not be unduly prejudiced by this extension.

Plaintiff requests that the fact discovery deadline be extended up to and including January 11, 2011 as to both the Sony and NVIDIA Defendants. The Court extended the fact discovery deadline to January 11, 2011 in its November 23 Order for the sole purpose of conducting the discovery ordered therein. (*See* docket #523.) The Court declines to reconsider that deadline and corresponding limitation. The fact discovery deadline remains set at January 11, 2011 as to the Sony Defendants for the limited discovery stated in the November 23 Order. The Court will address the fact discovery deadline as to Defendant NVIDIA in its adjudication of Plaintiff's pending motion to compel. (*See* docket #500.)

The Court agrees that the limited extension of the fact discovery deadline justifies a limited extension of the expert discovery deadlines. Extension of the expert discovery deadlines impacts the scheduled Final Pretrial Conference, thus the Court will reschedule this conference. The Final Pretrial Conference was originally set for February 14, 2011. (Docket #55.) The Court does not believe a two-month delay in holding the Final Pretrial Conference will adversely affect the timely progression of this matter, given the complexities of the issues and the ongoing discovery disputes. However, the Court emphasizes that it will likely decline to entertain any further request for extensions of time, absent exceptional cause.

Accordingly, the Court ORDERS:

The fact discovery deadline remains set at **January 11, 2011**, as to the Sony Defendants and limited to the discovery ordered on November 23, 2010;

The Court will address the fact discovery deadline as to Defendant NVIDIA in its adjudication of Plaintiff's pending motion to compel;

Initial expert disclosures are due on or before **February 11, 2011**;

Rebuttal expert disclosures are due on or before **March 11, 2011**;

Expert discovery is due on or before **April 11, 2011**;

The dispositive motions deadline is extended up to and including **April 11, 2011**; and

The Final Pretrial Conference set for February 14, 2011, is **vacated** and **rescheduled** to **April 14, 2011, at 9:45 a.m.** in Courtroom 203 on the second floor of the Byron G. Rogers United States Courthouse, 1929 Stout Street, Denver, Colorado. The parties shall file their proposed pretrial order no later than five business days prior to the pretrial conference and shall email the proposed pretrial order in useable format to *hegarty\_chambers@cod.uscourts.gov*.

Dated at Denver, Colorado, this 10th day of December, 2010.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge