

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

REPORT OF RULE 26(f) CONFERENCE

Pursuant to the Federal Rules of Civil Procedure Rule 26(f), and LCvR 16.3, counsel for both parties conferred on May 20, 2005 to:

- (1) Discuss the matters set forth in Rule 16.3(c).
- (2) Make or arrange for disclosures required by Rule 26(a)(1); F. R. Civ. P.; and
- (3) Develop a discovery plan that indicates the parties' views and proposals.

This report summarizes the parties' discussions.

Rule 16(b) Conference: A Scheduling Conference is scheduled for 10:30 a.m., June 21, 2005.

Brief Summary of Dispute: This is a claim for copyright infringement involving Defendant's use on the World Wide Web of headlines, excerpts from text and images relating to news articles.

Track: The parties view this case as a complex matter both in terms of facts and legal issues. The parties propose that this Court assign the matter to Complex Track/Track Three and issue a schedule for the case following the times and deadlines set forth for Track Three matters on Appendix I to the Court's Order Setting Initial Scheduling Conference.

Dispositive Motions: There are no pending dispositive motions, however, the parties agree that after at least some discovery, they will likely file dispositive motions to narrow or resolve the issues in this matter.

Joinder of Parties/Amendment of Pleadings: The parties propose that the Court require joinder of other parties and amendment of pleadings no later than twenty (20) days after Plaintiff files its response to Defendant's counterclaim.

Facts or Legal Issues: The parties agree that as discovery progresses, some facts or legal issues may be agreed upon or narrowed.

Assignment to Magistrate Judge: Because of the nature of the issues involved, the parties do not believe it is appropriate to assign this matter to a Magistrate Judge pursuant to Rule 73(a) and 28 U.S.C. 636(c).

Settlement: The parties engaged in unsuccessful settlement discussions. No settlement is currently likely.

Alternative Dispute Resolution: The parties do not believe that Alternative Dispute Resolution will be helpful in resolving this matter at this time.

Summary Judgment/Motions to Dismiss: The parties agree that Motions for Summary Judgment and/or Motions to Dismiss may resolve this dispute or narrow the triable issues. The parties propose that in setting deadlines for dispositive motions, the Court adopt the Track Three dates set out in Appendix I of the Court's Order.

Initial Disclosures: The parties will exchange witness lists within sixty (60) days of the Court's Scheduling Conference. The parties believe that other initial disclosures are not necessary.

Discovery Requests: Both parties intend to serve written discovery, including interrogatories, requests for production of documents and requests for admissions. Both parties

also intend to seek depositions of fact and expert witnesses. The parties believe discovery can be reasonably concluded within the Track Three time frame set out in Appendix I of the Court's Scheduling Order. Because the parties believe it will be necessary to depose a number of third parties as well as personnel directly employed by the Plaintiff and Defendant, they suggest that each side be allowed 30 depositions. Depositions of retained testifying experts should be in addition to this number.

Protective Order: The parties will submit a proposed Protective Order for the Court's review and approval.

Expert Reports: The parties believe that the Track Three time frame set out in Appendix I of the Court's Scheduling Order is appropriate for expert reports in this matter.

Class Action: This matter is not a Class Action.

Bifurcation: The parties propose that the Court bifurcate the issue of liability from the issue of damages for purposes of both discovery and trial.

PreTrial Conference: The parties propose that the Court schedule a pretrial conference no earlier than twelve (12) months from the date of the Scheduling Conference.

Trial Date: The parties request that the Court set a trial date at the pretrial conference.

Other Matters: There are no other matters which need to be included in this report.

Respectfully submitted,

/S/
Joshua J. Kaufman (DC Bar # 945188)
Mary Jane Saunders (DC Bar # 436608)
Jason A. Aquilino (DC Bar # 479788)
Venable LLP
575 7th Street, NW
Washington, D.C. 20004-1601
Tel: (202) 344-8538
Fax: (202) 344-8300

Attorneys for Plaintiff Agence France Presse

/S/
Andrew G. McBride (Bar No. 426697)
Bruce G. Joseph (Bar No. 338236)
Thomas W. Kirby (Bar No. 915231)
WILEY REIN & FIELDING LLP
1776 K Street, N.W.
Washington, D.C. 20006
Tel: (202) 719-7000
Fax: (202) 719-7049

Attorneys for Defendant Google, Inc.