

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION

FIREFLY DIGITAL INC

CIVIL ACTION NO. 6:10-cv-0133

VERSUS

JUDGE TUCKER L. MELANÇON

GOOGLE INC

MAGISTRATE JUDGE PATRICK J. HANNA

SCHEDULING ORDER

The following case-specific deadlines are hereby set in accordance with Rule 16(b) FED.R.CIV.P.

JURY TRIAL:

**March 21, 2011 at 9:30AM in Lafayette before
Judge Melançon**

BACKUP TRIAL DATES:

**March 28, 2011 at 9:30AM in Lafayette before
Judge Melançon**

**PRETRIAL
CONFERENCE:**

**February 16, 2011 at 4:00 PM in Lafayette before
Judge Melançon**

At the status conference the attorneys for the parties will advise the Court if electronically generated exhibits or aids are to be used at trial, and in appropriate cases, a schedule for production and discovery will be established. The attorneys for the parties should be prepared to discuss settlement of the case and should have their client(s) or client representative available by telephone.

In the event that the assigned trial, backup trial dates, and/or pretrial conference date(s) present an irreconcilable scheduling conflict or good cause otherwise exists, any counsel or unrepresented party must file a motion within (15) days after receiving this Scheduling Order requesting that a conference be conducted with Judge Melançon.

Matters marked with an asterisk (*) or which otherwise require the court's IMMEDIATE attention, must be provided under separate cover to the chambers.

PRETRIAL DEADLINES: FOR:

- | | |
|---|---|
| 4/28/2010
<i>21 days from S.O.</i> | 1. Initial Disclosures. See FED.R.CIV.P. 26 (a)(1).
<i>Under Rule 26(a)(1), "[a]ny party first served or otherwise joined after the Rule 26(f) conference must make these disclosures within 30 days after being served or joined."</i> |
| 5/12/2010
<i>35 days from S.O.</i> | 2. Rule 26(f) Conference of Parties. See FED.R.CIV.P. 26(f).
<i>No discovery may take place before the conference absent agreement of the parties or court order.</i>
FED.R.CIV.P. 26(d)(1). |
| 5/26/2010
<i>49 days from S.O.</i> | 3. Rule 26(f) Report to Court. See Attached Form and
FED.R.CIV.P.26(f). |
| 8/20/2010
<i>180 days before PTC</i> | 4. Joinder of Parties and Amendment of Pleadings. See
FED.R.CIV.P.14 and 15. |
| 8/20/2010
<i>180 days before PTC</i> | Plaintiff's Expert Info/Reports. See FED.R.CIV.P.26(a)(2)(B).
<i>Counsel are cautioned that an expert will not be allowed to testify to material not contained within the four corners of his/her report</i> |
| <i>Within 5 days of receipt</i> | 5. Furnishing copies of reports of treating physicians. |
| 9/20/2010
<i>150 days before PTC</i> | 6. Discovery Deadline
<i>Deadline for all discovery except that pertaining to expert witnesses.</i> |
| 9/29/2010
<i>140 days before PTC</i> | 7. Defendant's Expert Reports. See FED.R.CIV.P. 26(a)(2)(B).
<i>Counsel are cautioned that an expert will not be allowed to testify to material not contained within the four corners of his/her report</i> |
| 11/8/2010
<i>100 days before PTC</i> | 8. Expert Discovery Deadline |
| 11/18/2010
<i>90 days before PTC</i> | 9. Dispositive Motions* |

- 12/28/2010
50 days before PTC
10. **Daubert Motions***
Refers to motions challenging expert testimony, exhibits or demonstrative aids based upon such testimony on grounds that they are (1) not relevant or (2) not reliable under the standards set forth in Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d (1993) and Kumho Tire Co., Ltd. V. Carmichael, 526 U.S. 137, 119 S.Ct. 1167, 143 L.Ed.2d 238 (1999).
- 1/18/2011
30 days before PTC
11. **Motions in Limine.***
Refers to motions challenging all non-expert testimony, exhibits or demonstrative aids based upon such testimony to avoid injection into trial evidence on matters which are not relevant or are not reliable, or are so highly prejudicial to the moving party that curative instructions cannot prevent predispositional effect on the trier of fact.
- 1/18/2011
30 days before PTC
12. **Meeting of Counsel to Complete Pretrial Order.**
Actual trial counsel must attend. Meeting may be conducted by telephone.
- 1/18/2011
30 days before PTC
13. **Completion of Trial Depositions.**
- 2/7/2011
10 days before PTC
14. **Pretrial Order to be Filed with Clerk.*** *See attached form and FED.R.CIV.P. 26(a)(3).*
- 3/14/2011
7 days before Trial
15. **Real Time Glossary**
The real time glossary shall be delivered to the court reporter. The glossary shall contain all "key word indexes" from all depositions taken in the case, all witness lists, exhibit lists and copies of all expert reports. Please see the example of a Real time Glossary attached at the back of the scheduling order.

3/14/2011

7 days before Trial

16. **CD ROM Exhibits**

In cases where exhibits are to be presented by CD Rom, the CD must be delivered to the Clerk. Please refer to the Electronic Courtroom section of the Rule 26(f) Report, as well as the "Guidelines for Submission of Exhibits on CD ROM" posted on our website, at <http://www.lawd.uscourts.gov/> or obtain a copy from the clerk's office.

If you have any questions, please contact the Electronic Courtroom Coordinator for the Western District of Louisiana, at (337) 593-5006 or the judge's courtroom deputy.

Physicians reports are to be provided to opposing counsel within five (5) days of receipt.

Documents or other things which must be exchanged among counsel shall be exchanged by hand or certified mail, unless all counsel agree otherwise in writing.

Deadlines, limitations and other matters established by the Federal Rules of Civil Procedure shall govern this action except as altered by this case specific scheduling order and shall be enforced by the Court. Counsel should note Rule 37(c)(1) and Rule 26.

Lafayette, Louisiana, this 7th day of April, 2010.

BY DIRECTION OF THE COURT
TONY R. MOORE, CLERK

BY: s/ Christine Smith
Deputy Clerk