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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GLOBAL CASH ACCESS, INC., a Delaware corporation,

Plaintiff,

vs.

NRT TECHNOLOGY CORP., a Canadian corporation, and NRT TECHNOLOGIES, INC., a Nevada corporation,

Defendants.

Case No. 2:15-cv-00822-MMD-GWF

STIPULATION AND ORDER TO AMEND SCHEDULING ORDER DEADLINES

(FIRST REQUEST)

Pursuant to Local Rules 6-1, 16.1-3, and 26-4, Plaintiff GLOBAL CASH ACCESS, INC. (“Plaintiff” or “GCA”), and Defendants NRT TECHNOLOGY CORP. and NRT TECHNOLOGIES, INC. (“Defendants” or “NRT”) submit the following stipulation and proposed order to amend the deadlines in the current scheduling order (Dkt. # 38).

1 **A. BACKGROUND**

2 GCA filed its complaint for patent infringement and federal and state unfair competition
3 and tort claims on May 1, 2015. (Dkt. # 1.) An investigation pending before the International
4 Trade Commission (ITC) entitled *In the Matter of Certain Automated Teller Machines and Point*
5 *of Sale Devices and Associated Software Thereof*, Case No.: Inv. No. 337-TA-958, and a petition
6 for Covered Business Method review of U.S. Patent No. 6,081,792 (CBM 2015 00167) filed with
7 the Patent and Trial Appeal Board of the United States Patent and Trademark Office both involve
8 the same patent-in-suit for this matter and, in the case of the ITC investigation, certain of the
9 unfair competition claims. On June 22, 2015, NRT filed a motion to dismiss challenging the
10 existence of statutory subject matter in the asserted patent. (Dkt. # 5.)

11 **B. ITC PROCEEDINGS**

12 In the original scheduling order, both the parties and the Court anticipated that the parties'
13 claim construction briefing in this case would follow the issuance of the ITC claim construction
14 order and that any claim construction hearing in this case would occur after the evidentiary
15 hearing for the ITC then scheduled for March 2016. (See Dkt. # 38, Scheduling Order § G.)

16 On December 22, 2015, the ITC Administrative Law Judge issued a claim construction
17 order finding the term "processor" indefinite and declining to construe the remaining disputed
18 claim terms.

19 On December 29, 2015, Everi Payments, Inc. (the new name/successor entity to GCA)
20 filed a motion for reconsideration or, alternatively, for certification for interlocutory appeal to the
21 Commission.

22 The evidentiary hearing previously scheduled for March 2016 has, in light of the
23 aforementioned claim construction, been stayed pending further motion practice at the
24 Commission.

25 **C. NEW PROPOSED DISCOVERY DEADLINES**

26 1) Completed Discovery

27 The parties exchanged initial disclosures on September 11, 2015. Plaintiff served its
28 infringement contentions on September 11, 2015. Defendants served their noninfringement and

1 invalidity contentions on October 23, 2015. Plaintiff served its response to Defendants’
2 noninfringement and invalidity contentions on November 6, 2015. The parties exchanged lists
3 of proposed terms for claim construction on December 1, 2015.

4 2) Discovery That Remains to Be Completed

5 The parties have yet to exchange proposed claim constructions with supporting intrinsic
6 and extrinsic evidence. The parties have not yet filed a joint claim construction and prehearing
7 statement, nor have they engaged in claim construction briefing. Phase II discovery has not yet
8 been initiated.

9 3) Reasons for Extending the Time Limits Set by the Original Discovery Plan

10 The parties submit that in the interests of efficiency and a conservation of resources by
11 both the parties and the Court, further claim construction exchanges and briefing should occur
12 after motions regarding the ITC claim construction order have been decided.

13 4) Proposed Schedule for Completing All Remaining Discovery

14 The parties propose that all remaining deadlines in the current scheduling order be
15 extended to accommodate motion practice before the ITC relating to claim construction. The
16 parties note that they may seek to further extend the claim construction and other deadlines
17 pending the outcome of the events at the ITC, including review by the Commission, by way of
18 status reports filed every 90 days or within 5 court days of any order issued by the ITC. For
19 now, the parties propose the following schedule:

20 **a. Claim Construction and Protective Order**

EVENT	PREVIOUS DEADLINE	NEW DEADLINE
Exchange of Proposed Claim Constructions and Supporting Intrinsic and Extrinsic Evidence (LR 16.1-14)	December 15, 2015	April 5, 2016
Parties File Joint Claim Construction and Prehearing Statement LR 16.1-15)	January 13, 2016	May 5, 2016
Opening Claim Construction Brief from Plaintiff (LR 16.1-16)	January 28, 2016	May 19, 2016
Responsive Claim Construction Briefs from Defendant (LR 16.1-16)	February 11, 2016	June 2, 2016

1	Reply Claim Construction Brief from Plaintiff (LR 16.1-16)	February 18, 2016	June 9, 2016
2	Claim Construction Hearing (LR 16.1-17)	Mid-April 2016 after the trial in the ITC proceeding and as the Court sets.	After June 9, 2016, or completion of the ITC evidentiary hearing, as the Court sets.
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6	Filing of Protective Order	September 4, 2015	Before active discovery begins in Phase II.
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b. Local Rule 16-19(e)(3) – Expert Disclosures

EVENT	DEADLINE
Opening expert reports on issues for which the serving party has the burden of proof	75 days after entry of claim construction order
Rebuttal expert reports, on issues for which the other party has the burden of proof	45 days after service of opening expert reports
Expert discovery completed	45 days after service of rebuttal expert reports

c. Local Rule 26-1(e)(4) – Dispositive Motions

The parties propose that the deadline for filing dispositive motions remain 45 days after the close of expert discovery. The parties propose that the deadline for filing the joint pretrial order remain 60 days after the deadline for filing dispositive motions or 60 days after the Court’s decision on dispositive motion(s), whichever is later. Pursuant to LR 26-1(e)(6), the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereto shall be included in the pretrial order.

d. Settlement Conferences

EVENT	DEADLINE
Pre-Claim Construction Settlement Conference	None in light of three mandatory ITC settlement conferences
Post-Claim Construction Settlement Conference	Within 30 days after entry of the Claim Construction Order

1 2	Pre-Trial Settlement Conference	Within 30 days after filing the Pre-Trial Order
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3 Dated: January 8, 2016
4 Lewis Roca Rothgerber Christie LLP

Respectfully submitted,
Pillsbury Winthrop Shaw Pittman LLP

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19
20 **IT IS SO ORDERED:**

21 

22 Hon. George W. Foley
23 United States Magistrate Judge

24 Dated: January 12, 2016

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Lewis Roca
ROTHGERBER CHRISTIE