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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

PA ADVISORS, LLC . DOCKET NO. 2:07CV480  
VS. . TEXARKANA, TEXAS  
GOOGLE, INC. . JULY 24, 2008, 10:02 A.M.

STATUS CONFERENCE

BEFORE THE HONORABLE DAVID FOLSOM,  
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

FOR PLAINTIFF:

MR. ANDREW W. SPANGLER  
SPANGLER LAW PC  
208 N. GREEN ST.  
SUITE 300  
LONGVIEW, TX. 75601

MR. MICHAEL T. COOKE  
FRIEDMAN SUDER & COOKE  
604 EAST FOURTH STREET  
SUITE 200  
FORT WORTH, TEXAS

FOR DEFENDANT  
GOOGLE, INC.:

MR. BRIAN C. CANNON  
QUINN EMANUEL URQUHART  
OLIVER & HEDGES  
555 TWIN DOLPHIN DRIVE  
SUITE 560  
REDWOOD SHORES, CA. 94065

MR. MICHAEL E. RICHARDSON  
BECK REDDEN & SECREST  
1221 MCKINNEY  
SUITE 4500  
HOUSTON, TX. 77010

FOR DEFENDANT  
YAHOO! INC:

JASON C. WHITE  
HOWREY LLP

1		321 NORTH CLARK STREET
2		SUITE 3400
		CHICAGO, IL. 60610
3	FOR DEFENDANT	
4	FACEBOOK, INC.:	MR. J. THAD HEARTFIELD
		THE HEARTFIELD LAW FIRM
5		2195 DOWLEN ROAD
		BEAUMONT, TX. 77706
6		
7	FOR DEFENDANT	
8	FAST SEARCH & TRANSFER	
9	INC.:	MR. WILLIAM G. LAVENDER
		LAVENDER LAW
10		210 N. STATE LINE AVENUE
		SUITE 503
		TEXARKANA, AR. 75504
11	FOR DEFENDANT	
12	SEEVAST CORPORATION:	MR. ROBERT J. FLUSKEY, JR.
13		HODGSON RUSS
		140 PEARL STREET
		SUITE 100
		BUFFALO, N.W. 14202
14	FOR DEFENDANT	
15	24/7 REAL MEDIA, INC.:	MS. MELISSA SMITH
16		GILLAM & SMITH
		303 S. WASHINGTON AVENUE
		MARSHALL, TX. 75670
17	FOR DEFENDANT	
18	CONTEXTWEB, INC.:	MR. MATTHEW D. ORWIG
19		SONNENSCHN NATH &
		ROSENTHAL
20		1717 MAIN STREET
		SUITE 3400
		DALLAS, TX. 75201
21	FOR DEFENDANT	
22	SPECIFIC MEDIA, INC.:	MR. TREY YAR
23		YARBROUGH - WILCOX
		100 E. FERGUSON, SUITE 1015
		TYLER, TX. 75702
24	COURT REPORTER:	MS. LIBBY CRAWFORD, CSR
25		OFFICIAL COURT REPORTER
		500 STATE LINE AVENUE

TEXARKANA, TX. 75501  
903.794.4067 EXT. 237

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PROCEEDINGS RECORDED BY STENOMASK VERBATIM REPORTING,  
TRANSCRIPT PRODUCED BY CAT SYSTEM.

P R O C E E D I N G S

TEXARKANA, TEXAS

JULY 24, 2008

(OPEN COURT)

1 THE COURT: GENTLEMEN, HAVE A SEAT. I UNDERSTAND  
2 THAT THE PARTIES HAVE REACHED AN AGREEMENT ON MOST OF THE  
3 ISSUES FROM A SCHEDULING STANDPOINT, AND I APPRECIATE YOUR  
4 EFFORTS ON SUCH SHORT NOTICE, SO TO SPEAK. BUT WHAT SAYS THE  
5 PLAINTIFF, SORT OF TELL ME THE SUBJECT MATTER OF THIS CASE AND  
6 WHAT'S INVOLVED. AND I HAVE LOOKED AT YOUR JOINT MANAGEMENT  
7 REPORT, BUT TELL ME A LITTLE MORE ABOUT THIS CASE.

8 MR. COOKE: SURE, YOUR HONOR. MIKE COOKE FOR THE  
9 PLAINTIFF OF FRIEDMAN, SUDER & COOKE FROM FORT WORTH. VERY  
10 SIMPLY, THE CASE HAS BEEN PENDING A NUMBER OF MONTHS, EIGHT  
11 MONTHS OR SO. THERE HAVE BEEN SOME MOTIONS PENDING HERE AND  
12 THERE. BUT THE GIST --

13 THE COURT: BUT I MEAN THE TECHNOLOGY OF THE CASE.

14 MR. COOKE: THE GIST OF THE CASE IS ADAPTIVE INTERNET  
15 SEARCHES USING CERTAIN INFORMATION GLEANED IN THE COURSE OF  
16 THE PROCESS WHERE YOU BASICALLY TAKE PROFILES OF INFORMATION,  
17 PERHAPS FROM THE USER, INFORMATION ABOUT THAT PERSON,  
18 INFORMATION FROM THE DOCUMENTS TO BE SEARCHED, AND USING THAT  
19 INFORMATION TO TRY TO HAVE A MORE SPECIFIC SEARCH ON THE  
20 INTERNET.

21 SO, FOR EXAMPLE, IF YOU TAKE GOOGLE AND SOMEONE USES A

1 GOOGLE SEARCH, THAT INFORMATION AND ACTUAL SEARCH REQUEST IS  
2 GLEANED, IT'S BROKEN DOWN. YOU MAY FIND SOMETHING ABOUT THAT  
3 PARTICULAR PERSON THAT HELPS YOU MATCH A MORE SPECIFIC SEARCH  
4 TO THE ACTUAL THING THAT THE USER IS LOOKING FOR. THAT'S THE  
5 GIST OF IT.

6 THE COURT: HOW MANY CLAIMS INVOLVED?

7 MR. COOKE: WE HAVE A NUMBER OF CLAIMS, AT LEAST TWO  
8 INDEPENDENT CLAIMS.

9 THE COURT: ANY PROBLEM WITH MY NORMAL LIMITATIONS  
10 ON --

11 MR. COOKE: WE WILL DEFINITELY EVENTUALLY -- WE WILL  
12 LIVE WITH THE TEN CLAIM LIMIT.

13 THE COURT: WELL, WHAT ARE YOU STARTING WITH?

14 MR. COOKE: WELL, WE HAVE TWO, RIGHT NOW TWO  
15 DEPENDENT CLAIMS.

16 THE COURT: OKAY.

17 MR. COOKE: I EXPECT THAT COULD EBB AND FLOW, BUT  
18 THAT'S THE GIST OF IT.

19 THE COURT: WHAT SAYS THE DEFENDANTS?

20 MR. CANNON: GOOD MORNING, YOUR HONOR, THIS IS BRIAN  
21 CANNON FROM QUINN EMANUEL FOR GOOGLE. I JUST BRIEFLY WOULD  
22 RESPOND ON DESCRIBING THE TECHNOLOGY. THE PLAINTIFFS HAVE  
23 SUED, THIS IS A PATENT CASE, OBVIOUSLY, AND THE PLAINTIFFS  
24 HAVE SUED A NUMBER OF DEFENDANTS, MOST OF WHOM I BELIEVE ARE  
25 SOFTWARE COMPANIES LIKE GOOGLE. THE PATENT IS ACTUALLY PRETTY

1 SPECIFIC AND IT HAS TO DO WITH CREATING A USER PROFILE BY  
2 ANALYZING THE GRAMMATICAL SENTENCE STRUCTURE OF LANGUAGE THAT  
3 THE USER SUBMITS. SO THE USER WOULD SUBMIT TEXT, SUCH AS  
4 SENTENCES OR PRIOR ARTICLES, AND THE INVENTION AS IT'S CLAIMED  
5 RELATES TO ANALYZING THE ACTUAL GRAMMATICAL STRUCTURE, LIKE  
6 NOUN, VERB, ADJECTIVE, TO CREATE A PSYCHOLOGICAL EDUCATIONAL  
7 PROFILE OF THE USER, AND USING THAT PROFILE TO MAKE SPECIFIC  
8 INTERNET SEARCHES.

9 THE COURT: AND I BELIEVE THE PARTIES HAVE BASICALLY  
10 REPRESENTED THEY DON'T BELIEVE A TECHNICAL ADVISOR IS  
11 NECESSARY. IS THAT CORRECT?

12 MR. SPANGLER: THAT IS CORRECT, YOUR HONOR.

13 MR. CANNON: THAT'S CORRECT UNLESS YOUR HONOR FEELS  
14 IT WOULD BE HELPFUL, AND WE DON'T THINK IT IS NECESSARY.

15 THE COURT: WELL, WE WILL GO WITH YOUR REPRESENTATION  
16 INITIALLY, RECALLING I HAVE A LONG MEMORY. NORMAL LIMITS ON  
17 DISCOVERY. ANY PARTICULAR ISSUE ON DISCOVERY LIMITS IN THIS  
18 CASE? NOW, JUDGE WARD HAD NOT ACTUALLY ENTERED ANY TYPE OF  
19 SCHEDULING ORDER. HE ACTUALLY I BELIEVE WAS SCHEDULED TO HAVE  
20 A MANAGEMENT CONFERENCE JULY 29<sup>TH</sup>, IF MEMORY SERVES ME CORRECT.  
21 YOU HAVEN'T BEEN OPERATING UNDER ANY TYPE OF SCHEDULING ORDER  
22 TO DATE?

23 MR. SPANGLER: NO, YOUR HONOR. WE ACTUALLY REACHED  
24 IN OUR 26(F) REPORT, WE HAD TWO DISPUTES STILL LEFT ON  
25 DISCOVERY. WE HAVE WORKED THOSE OUT, FOR INTERROGATORIES,

1 WHICH IS SECTION 5 (A) .

2 THE COURT: RIGHT. I NOTICE IT'S A LITTLE UNUSUAL,  
3 THE PLAINTIFF WANTED A FEW MORE THAN THE DEFENDANTS, SO THAT'S  
4 A TWIST.

5 MR. SPANGLER: WELL, WE HAVE AGREED TO TWENTY COMMON  
6 AND TEN INDIVIDUAL, AND THEN FOR DEPOSITION HOURS, WHICH IS  
7 SECTION 5 (E), WE HAVE AGREED TO ONE HUNDRED HOURS OF  
8 DEPOSITION.

9 THE COURT: IS THAT TOTAL?

10 MR. SPANGLER: YES, SIR. AND THAT IS ALL THE  
11 DISCOVERY DISPUTES WE HAVE.

12 THE COURT: VERY WELL.

13 MR. SPANGLER: SO IT'S ALL WORKED OUT.

14 THE COURT: WITH MY NORMAL LIMITATIONS CONCERNING  
15 TIME LIMITS ON EXPERT DEPOSITIONS, NOT TO LAST MORE THAN TEN  
16 HOURS, AND 30 (B) (6) WITNESSES.

17 MR. SPANGLER: WELL, ACTUALLY, YOUR HONOR, WITH  
18 RESPECT TO THE EXPERTS, THE --

19 THE COURT: WHAT?

20 MR. SPANGLER: WITH EXPERTS, THE PARTIES HAVE, THE  
21 DEFENDANTS HAVE SO MANY DIFFERENT PARTIES --

22 THE COURT: RIGHT. SO WHAT DO YOU HAVE IN MIND IN  
23 THAT REGARD SO WE DON'T RUN INTO ANY DISAGREEMENTS?

24 MR. SPANGLER: WE WOULD LIKE TO WAIT IF POSSIBLE, IF  
25 WE'D HAVE THE COURT'S APPROVAL, BECAUSE SOME OF THE DEFENDANTS

1 HAVE ALREADY SETTLED AND MORE WE EXPECT WILL. AND THEN AS WE  
2 GET TOWARDS THE *MARKMAN* HEARING, THE PARTIES WILL HAVE A  
3 CLEARER PICTURE OF WHO IS GOING TO BE IN THE CASE, WHAT  
4 INTERESTS ALIGN, AND WE WILL BE ABLE TO NARROW THE NUMBER OF  
5 EXPERTS AT THAT TIME, IF THAT'S OKAY.

6 THE COURT: I DON'T HAVE ANY DISAGREEMENT OR PROBLEM  
7 WITH THAT. NORMALLY WHAT I SEE WHEN YOU HAVE A NUMBER OF  
8 DEFENDANTS, HAVE X NUMBER OF COMMON HOURS AND THEN X NUMBER OF  
9 HOURS FOR EACH INDIVIDUAL DEFENDANT. BUT I WOULD LIKE SOME  
10 TIME LIMIT SO THEY DON'T LAST FOR DAYS AND DAYS, WHICH ONLY  
11 CREATES MORE PROBLEMS FOR THE COURT WHEN THAT HAPPENS.

12 MR. SPANGLER: WE WILL WORK THAT OUT, YOUR HONOR.

13 THE COURT: SO WITH THAT UNDERSTANDING, THEN WE WILL  
14 GO FORWARD WITH YOUR SUGGESTION. NORMAL AGREEMENT, BEFORE  
15 DISCOVERY DISPUTES MEET AND CONFER, IF YOU HAVE LOCAL COUNSEL,  
16 WITH LOCAL COUNSEL PRESENT BEFORE YOU FILE A MOTION. I WILL  
17 HAVE A NORMAL AGREEMENT, OR ENTER MY NORMAL ORDER ON MOTION  
18 PRACTICE, NEED LEAVE OF COURT BY LETTER BRIEF TO FILE A MOTION  
19 FOR SUMMARY JUDGMENT.

20 WHAT ELSE, PROTECTIVE ORDER? WHERE ARE THE PARTIES ON A  
21 PROTECTIVE ORDER?

22 MR. SPANGLER: YOUR HONOR, BECAUSE THIS TIME SCHEDULE  
23 WAS A LOT MORE CRAMPED THAN THE COURT NORMALLY PROVIDES, WE  
24 HAVE TALKED ABOUT A PROTECTIVE ORDER. WE HAVE ASKED 'TIL  
25 AUGUST 18<sup>TH</sup> TO SUBMIT AN AGREED ONE. IF IT'S NOT AGREED BY



1 THEN, THE COURT ENTER ITS STANDARD PROTECTIVE ORDER SO WE CAN  
2 START MOVING FORWARD. I THINK THE PARTIES ARE GOING TO BE  
3 ABLE TO AGREE. OBVIOUSLY THE BIG ISSUE IS SOURCE CODE.  
4 EVERYTHING ELSE SHOULD BE PRETTY EASY.

5 THE COURT: MY NORMAL PRACTICE, IF BY AUGUST 18<sup>TH</sup> YOU  
6 ARE UNABLE TO AGREE, SUBMIT YOUR COMPETING ORDERS AND I WILL  
7 ENTER ONE OF THE ORDERS OR SOME COMBINATION THEREOF.

8 MR. CANNON: I AM SORRY, YOUR HONOR. AS COUNSEL  
9 SAID, IN THE INTERIM TIME WE HAD AGREED THAT SOURCE CODE WOULD  
10 NOT BE PRODUCED UNTIL THE FINAL PROTECTIVE ORDER IS ENTERED BY  
11 THE COURT.

12 MR. SPANGLER: THAT IS CORRECT, YOUR HONOR.

13 THE COURT: THAT OFTEN BECOMES AN ISSUE. ANYONE  
14 THAT'S BEEN IN MY COURT, THERE ARE A BUNCH OF PROTECTIVE  
15 ORDERS OUT THERE AND WHAT I NORMALLY DO, BUT EACH CASE CAN BE  
16 UNIQUE AND NEEDS TO BE TWEAKED ACCORDINGLY OCCASIONALLY.

17 I BELIEVE YOU WERE TALKING IN TERMS OF SEPTEMBER ON A  
18 CLAIM CONSTRUCTION, SEPTEMBER OF '09, OBVIOUSLY. IS THAT  
19 CORRECT?

20 MR. SPANGLER: YES, YOUR HONOR.

21 MR. CANNON: THAT IS CORRECT, YOUR HONOR.

22 THE COURT: TO BE MORE EXACT, THAT WAS SEPTEMBER  
23 THE --

24 MR. SPANGLER: 17<sup>TH</sup>.

25 THE COURT: -- 17<sup>TH</sup>. IS THAT OPEN WITH US, MRS.

1 SCHROEDER STILL?

2 DOCKET COORDINATOR: YES.

3 THE COURT: IT APPEARS TO BE, SEPTEMBER 17<sup>TH</sup> OF '09.

4 HOW MUCH TIME WOULD EACH SIDE FEEL LIKE YOU NEED?

5 MR. SPANGLER: HOUR AND A HALF A SIDE FOR THE

6 PLAINTIFF.

7 MR. CANNON: I HAVEN'T CONSULTED WITH CO-DEFENDANTS,

8 BUT I WOULD SAY TWO TO THREE HOURS.

9 THE COURT: I WILL GIVE EACH SIDE TWO HOURS. YOU ARE

10 WELCOME TO USE LESS.

11 MR. CANNON: UNDERSTOOD, YOUR HONOR.

12 THE COURT: TUTORIAL NECESSARY?

13 MR. SPANGLER: I DON'T THINK IT WILL BE IN THIS CASE,

14 YOUR HONOR.

15 THE COURT: YOU MAY USE PART OF YOUR TWO HOURS.

16 MR. CANNON: WITH THE TWO HOURS, YOUR HONOR, WE

17 SHOULD BE ABLE TO.

18 THE COURT: VERY WELL.

19 DOCKET COORDINATOR: START AT 9 O'CLOCK?

20 THE COURT: EXCUSE ME?

21 DOCKET COORDINATOR: START AT 9?

22 THE COURT: YES, WE WILL START AT 9 O'CLOCK ON THE

23 17<sup>TH</sup>. NOW I WANTED TO TAKE UP -- THERE ARE FOUR PENDING --

24 WHEN I RECEIVED THIS CASE FROM JUDGE WARD, THERE WERE FOUR

25 PENDING MOTIONS ON MY SIX MONTH LIST. AND FOR THOSE OF YOU

1 WHO HAVE CLERKED, YOU UNDERSTAND THE SIGNIFICANCE OF THAT, SO  
2 I WOULD SURE LIKE TO TALK ABOUT THOSE FOUR PENDING MOTIONS. I  
3 BELIEVE GOOGLE HAS A MOTION TO DISMISS PENDING; FACEBOOK HAS A  
4 MOTION TO DISMISS PENDING, OR IN THE ALTERNATIVE FOR A MORE  
5 DEFINITE STATEMENT; YAHOO! HAS A MOTION TO DISMISS PLAINTIFF'S  
6 FIRST AMENDED COMPLAINT. SO I AM ASSUMING FROM A PROCEDURAL  
7 STANDPOINT, IF THERE WAS A MOTION TO DISMISS THE INITIAL  
8 COMPLAINT, WE NOW DISMISS THAT ONE. HAS THERE BEEN AN AMENDED  
9 COMPLAINT? AND WHO REPRESENTS YAHOO!?

10 MR. WHITE: I DO, YOUR HONOR.

11 THE COURT: YOU HAVE RENEWED YOUR MOTION TO DISMISS  
12 THE AMENDED COMPLAINT, SO WE CAN DISMISS WITHOUT PREJUDICE THE  
13 INITIAL MOTION TO DISMISS SINCE THERE IS A PLEADING THAT'S  
14 REPLACED IT. AND CONTEXTWEB HAS A MOTION TO CHANGE VENUE.  
15 WHO REPRESENTS?

16 MR. ORWIG: MATT ORWIG, YOUR HONOR. GOOD TO SEE YOU  
17 AGAIN. CONTEXTWEB BELIEVES -- WE ARE WORKING ON THE  
18 SETTLEMENT DOCUMENTS TODAY, AND SO I THINK THAT WILL BE A MOOT  
19 POINT.

20 THE COURT: OKAY. CAN WE DISMISS IT WITHOUT  
21 PREJUDICE IN THE EVENT SOMETHING HAPPENS ON THE SETTLEMENT YOU  
22 CAN ALWAYS RENEW IT?

23 MR. ORWIG: THAT'S FINE, YOUR HONOR.

24 THE COURT: VERY WELL. SO LET'S TALK ABOUT FACEBOOK.  
25 WHO REPRESENTS FACEBOOK? MR. HEARTFIELD.

1 MR. HEARTFIELD: THAD HEARTFIELD FOR FACEBOOK, AND WE  
2 ARE ALSO WORKING THROUGH SOME FINAL SETTLEMENT DOCUMENTS. SO  
3 I THINK THAT CAN BE DISMISSED WITHOUT PREJUDICE.

4 THE COURT: WITHOUT PREJUDICE. AND THEN IF YOUR  
5 SETTLEMENT DOESN'T FINALIZE, YOU CAN ALWAYS RENEW IT. SO THAT  
6 TAKES CARE OF TWO OF THE FOUR. GENTLEMEN, WHEN COULD WE SET  
7 THE MOTION TO DISMISS THE AMENDED COMPLAINT? A COUPLE OR TWO  
8 OR THREE WEEKS, WILL YOU BE AVAILABLE THEN? DO YOU WANT TO BE  
9 HEARD ON YOUR MOTION TO DISMISS? DO YOU WANT TO STAND ON THE  
10 PAPERS? WHAT'S YOUR PREFERENCE IN THAT REGARD?

11 MR. CANNON: YOU MENTIONED THAT GOOGLE HAD MADE A  
12 MOTION. GOOGLE HAS NOT MADE A MOTION.

13 THE COURT: I AM SORRY, I MEANT YAHOO!. YAHOO! HAS A  
14 MOTION PENDING TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT.

15 MR. WHITE: THAT IS CORRECT, YOUR HONOR. WE DON'T  
16 NEED TO BE HEARD. I THINK WE CAN STAND ON THE PAPERS FOR  
17 THAT.

18 MR. SPANGLER: WE CAN CERTAINLY STAND ON THE PAPERS.

19 THE COURT: VERY WELL. SO I BELIEVE WE HAVE  
20 ADDRESSED ALL THE PENDING MOTIONS ON THE SIX MONTH LIST.  
21 TRIAL DATE, YOU WERE IN DISAGREEMENT ABOUT THAT. HAVE YOU  
22 RESOLVED THAT DISAGREEMENT?

23 MR. CANNON: WE HAVE NOT RESOLVED THAT ONE.

24 MR. SPANGLER: WE HAVE NOT, YOUR HONOR.

25 THE COURT: OBVIOUSLY PLAINTIFF WANTS IT IN MARCH OF

1 2010; DEFENDANTS WANT IT IN OCTOBER OF 2010. DO YOU THINK WE  
2 CAN ACCOMPLISH THE CLAIM CONSTRUCTION, HAVE AN ORDER OUT AND  
3 DO ALL THE NECESSARY, MEET ALL THE NECESSARY DEADLINES,  
4 ASSUMING I HAVE IT OUT IN A REASONABLE TIME AFTER THE CLAIM  
5 CONSTRUCTION ORDER?

6 MR. SPANGLER: I DO, YOUR HONOR. RIGHT NOW, FOR  
7 EXAMPLE, JUDGE WARD IS SETTING HIS WHERE HE HAS MARKMAN AND  
8 TRIAL FOUR TO FIVE MONTHS.

9 THE COURT: JUDGE WARD IS MORE SPEEDY THAN ME,  
10 THOUGH.

11 MR. SPANGLER: WELL, HOPEFULLY YOU WON'T HAVE THAT  
12 MANY TERMS AT THE HEARING.

13 THE COURT: HE IS MORE EFFICIENT THAN I AM.

14 MR. SPANGLER: BUT OUR MAIN REASON FOR THAT IS  
15 BECAUSE THIS CASE HAS PASSED AROUND SO LONG AND IT'S BEEN  
16 PENDING, I UNDERSTAND THE DISTRICT HAS SLOWED DOWN MAINLY  
17 BECAUSE OF US PATENT LAWYERS, BUT WE WOULD BE LOOKING AT OVER  
18 THREE YEARS FROM FILING TO TRIAL IF WE DID OCTOBER OF 2010.

19 THE COURT: OKAY. AND WHY DO THE DEFENDANTS TAKE THE  
20 POSITION OCTOBER IS --

21 MR. CANNON: YOUR HONOR, I DON'T THINK THE MATH ADDS  
22 UP JUST IN TERMS OF THE DAYS FROM A SEPTEMBER 17 MARKMAN  
23 HEARING, JUST LOOKING AT WHAT, YOU KNOW, WE HAVE AGREED TO IN  
24 TERMS OF POST-MARKMAN DECISION ACTIVITIES. WE HAVE GOT TO  
25 CLOSE FACT DISCOVERY, BEGIN EXPERT DISCOVERY, OBJECTIONS TO

1 EXPERT DISCOVERY, DISPOSITIVE MOTIONS. AND BY MY COUNT,  
2 THAT'S ABOUT FIVE MONTHS OF ACTIVITY AFTER THE CLAIM  
3 CONSTRUCTION DECISION. AND SO IF YOUR HONOR, YOU KNOW, RULES  
4 AROUND OCTOBER OF '09 --

5 THE COURT: WELL, HERE IS WHAT WE WILL DO. AGAIN,  
6 THIS CASE HAS BEEN ON THE DOCKET SOME TIME, AND IF I SET IT  
7 FOR OCTOBER OF 2010 THAT'S ALMOST A YEAR BETWEEN CLAIM  
8 CONSTRUCTION AND TRIAL. I AM GOING TO GO AHEAD AND SET IT FOR  
9 MARCH OF 2010 AND WE CAN ALWAYS REVISIT THIS IF I DON'T HAVE  
10 THE ORDER OUT IN A TIMELY FASHION.

11 MR. SPANGLER: THANK YOU, YOUR HONOR.

12 THE COURT: SO I HOPE THE PARTIES CAN AGREE ON THE  
13 REST OF THE DATES WITH THAT TRIAL SETTING.

14 MR. SPANGLER: YEAH. WE MAY NEED TO TWEAK THE DATES  
15 AFTER THE MARKMAN. I DID WANT TO FLAG FOR THE COURT THAT EVEN  
16 THOUGH WE HAD ABOUT FIFTEEN DATES IN DISPUTE, WE HAVE WORKED  
17 OUT MOST OF THEM. THERE ARE STILL ABOUT SEVEN OR EIGHT IN  
18 DISPUTE, BUT WE THINK SINCE WE HAVE AGREED ON THE BIG ONES, WE  
19 CAN FINALIZE A SCHEDULE NOW.

20 THE COURT: LIKEWISE, WHEN YOU SUBMIT EITHER AN  
21 AGREED PROTECTIVE ORDER OR YOUR COMPETING TERMS, SUBMIT EITHER  
22 AN AGREED SCHEDULING ORDER WITH THESE DATES OR YOUR COMPETING  
23 SCHEDULING ORDERS AND I WILL ENTER ONE OF THE TWO OR SOME  
24 MODIFICATION OF ONE OF THEM, OR BOTH OF THEM.

25 MR. SPANGLER: THANK YOU, YOUR HONOR.

1 THE COURT: ANYTHING ELSE THAT NEEDS -- SO THE FINAL  
2 PRETRIAL WILL BE THE FIRST MONDAY IN MARCH OF 2010, JURY  
3 SELECTION THE FOLLOWING DAY. I NOTICE YOU HAVE HAD SOME  
4 INFORMATION REGARDING TIME LIMITS. IT'S WAY TOO EARLY TO  
5 WORRY ABOUT HOW LONG IT'S GOING TO TAKE TO TRY THE CASE, SO WE  
6 WON'T NEED TO TAKE THAT UP. IT SEEMS THAT AT LEAST SOME  
7 PARTIES ARE MOVING IN THE DIRECTION OF SETTLEMENT. ANY  
8 THOUGHTS ON MEDIATION? IF SO, WHEN WOULD IT BE HELPFUL?

9 MR. SPANGLER: PLAINTIFF IS ALWAYS SHOCKINGLY READY  
10 TO MEDIATE, YOUR HONOR.

11 THE COURT: YEAH.

12 MR. CANNON: WE DON'T THINK MEDIATION WOULD BE  
13 HELPFUL AT THIS TIME UNTIL WE MOVE ALONG A LITTLE MORE IN THE  
14 CASE.

15 THE COURT: I CERTAINLY ENCOURAGE IT IF IT BECOMES  
16 APPROPRIATE AND THE PARTIES FEEL IT WOULD BE OF BENEFIT. ANY  
17 TOPICS WE HAVEN'T COVERED?

18 MR. SPANGLER: NOTHING FROM THE PLAINTIFF, YOUR  
19 HONOR.

20 THE COURT: ANYTHING FROM THE --

21 MR. CANNON: I THINK WE ARE GOOD, YOUR HONOR.

22 THE COURT: LET ME MAKE ONE LAST CHECK OF MY NOTES.  
23 I BELIEVE THAT'S ALL. I APPRECIATE YOUR EFFORTS, LIKE I SAID,  
24 ON SHORT NOTICE. BUT WHEN I RECEIVED THIS FROM JUDGE WARD I  
25 THOUGHT I WOULD TRY TO GIVE IT SOME QUICK ATTENTION.

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WE WILL BE IN RECESS.

REPORTER'S CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM  
THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

DATE: AUGUST 10, 2008

  /S/LIBBY CRAWFORD  

LIBBY CRAWFORD, CSR, CVR  
OFFICIAL COURT REPORTER