

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MYMAIL, LTD

Plaintiff

vs.

**AMERICA ONLINE, INC., AT&T CORP.,
NETZERO, INC., JUNO ONLINE SERVICES,
INC., NETBRANDS, INC., EARHLINK, INC.,
PRODIGY COMMUNICATIONS
CORPORATION, and SOUTHWESTERN BELL
INTERNET SERVICES INC.**

Defendants

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CASE NO. 6:04-CV-189

AMENDED DOCKET CONTROL ORDER

Before the Court is Prodigy Communications Corporation's and Southwestern Bell Internet Services Inc.'s (SWBI) Unopposed Motion for Entry of Discovery-Schedule Order (Docket No. 149). The Court **GRANTS** the Motion and amends the current Docket Control Order as follows:

Docket Control Order

The Court hereby enters the following Docket Control Order in the above-captioned case:

October 4, 2005	9:00 a.m. Jury selection with trial to follow as reached at the United States District Court, 211 West Ferguson, 3rd Floor, Courtroom of Judge Leonard Davis, Tyler, Texas.
September 23, 2005	Pretrial Conference - 9:00 a.m. at the United States District Court, 211 West Ferguson, 3rd Floor, Courtroom of Judge Leonard Davis, Tyler, Texas.
September 21, 2005	Motions in Limine due. The parties are directed to confer and advise the Court on or before 3:00 o'clock p.m. the day before the pre-trial conference which paragraphs are agreed to and those that need to be addressed at the pre-trial conference.

September 20, 2005	Pretrial Objections due
September 6, 2005	Video Deposition Designation due. Each party who proposes to offer a deposition by video shall file a disclosure identifying the line and page numbers to be offered. All other parties will have ten days to file a response requesting cross examination line and page numbers to be included. Any objections to testimony must be filed ten days prior to the Pretrial Conference. The party who filed the initial Video Deposition Designation is responsible for preparation of a final edited video in accordance with all parties designations and the court's rulings on objections. Pretrial Disclosures due.
August 16, 2005	Joint Pretrial Order, Joint Proposed Jury Instructions, and Form of the Verdict for jury trials. Proposed Findings of Fact and Conclusions of Law for bench trials. Response to Dispositive Motions (including <i>Daubert</i> motions) Responses to dispositive motions filed prior to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV56.
August 2, 2005	Parties to Identify Rebuttal Trial Witnesses; Dispositive Motions due from all parties and any other motions that may require a hearing (including <i>Daubert</i> motions); Answer to Amended Pleadings (after Markman Hearing) due.
July 26, 2005	Parties to Identify Trial Witnesses; Amend Pleadings (after Markman Hearing). (It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the deadline.)
July 19, 2005	Discovery Deadline
July 5, 2005	Parties May Designate Rebuttal Expert Witnesses (non-construction issues); Rebuttal Expert witness reports due; Refer to Local Rules for required information.
June 14, 2005	All Parties Designate Expert Witnesses (non-construction issues); Expert witness reports due; Refer to Local Rules for required information.
April 28, 2005	All Parties Comply with P.R. 3-8
April 6, 2005	Markman Hearing- 9:00 a.m. at the United States District Court, 211 West Ferguson, 3rd Floor, Courtroom of Judge Leonard

	Davis, Tyler, Texas.
March 21, 2005	All Parties Comply with P.R. 4-5(c)
March 14, 2005	All Parties Comply with P.R. 4-5(b).
March 7, 2005	Submit tutorials for Court's review
March 1, 2005	All Parties Comply with P.R. 4-5(a)
February 18, 2005	Discovery Deadline - Claims Construction Issues
February 8, 2005	All Parties Comply with P.R. 4-3
January 28, 2005	All Parties Comply with P.R. 4-2
January 14, 2005	All Parties Comply with P.R. 4-1
January 10, 2005	Prodigy and SWBI to comply with P.R. 3-3 and P.R. 3-4. Privilege Logs to be exchanged by MyMail, Prodigy, and SWBI (or a letter to the Court stating that there are no disputes as to claims of privileged documents).
January 3, 2005	Respond to Amended Pleadings
December 31, 2004	Parties to submit name, address and telephone number of three technical advisors for the Court
December 23, 2004	Prodigy and SWBI to submit Initial and Additional Disclosures provided for in the Court's Discovery Order and to submit Initial Disclosure provided for in Rule 26(a) of the Federal Rules of Civil Procedure.
December 20, 2004	Amend Pleadings. It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the deadline. However, if the amendment would affect preliminary infringement contentions or preliminary invalidity contentions, a motion must be made pursuant to P. R. 3-7 irrespective of whether the amendment is made prior to this deadline.
December 1, 2004	GTE.Net LLC is to Comply with P.R. 3-3 and 3-4. Privilege Logs to be exchanged by MyMail and GTE.Net LLC (or a letter to the Court stating that there are no disputes as to claims of privileged documents).
November 17, 2004	Join Additional Parties; Privilege Logs to be exchanged by Parties (or a letter to the Court stating that there are no disputes as to claims of

	privileged documents). (Note: The Privilege Logs between MyMail and GTE.Net LLC are due December 1, 2004.)
November 15, 2004	GTE.Net LLC and MyMail to submit Initial Disclosures provided for in the Court's Discovery Order and to submit Initial Disclosure provided for in Rule 26(a) of the Federal Rules of Civil Procedure. GTE.Net LLC and MyMail to submit Additional Disclosures pursuant Paragraph 2 (b) of the Court's Discovery Order.
October 25, 2004	MyMail to Comply with P.R. 3-1 and 3-2 as to GTE.Net LLC.
September 16, 2004	Comply with P.R. 3-3
September 6, 2004	Parties to submit Additional Disclosures pursuant Paragraph 2 (b) of the Court's Discovery Order.
August 23, 2004	Parties to submit initial Disclosures provided for in the Court's Discovery order; Parties to submit Initial Disclosure provided for in Rule 26(a) of the Federal Rules of Civil Procedure.
August 2, 2004	Comply with P.R. 3-1
Mediation	Judge Robert M. Parker is appointed as mediator in this cause. The first round of mediation shall be completed between January 1 and January 31, 2005 . The second round of mediation shall be take place between May 1 and June 15, 2005 . The mediator has authority to convene mediation as often as necessary. The mediator shall be deemed to have agreed to the terms of Court Ordered Mediation Plan of the United States District Court of the Eastern District of Texas by going forth with the mediation in accordance with this order. General Order 99-2.
10 Days	EXPECTED LENGTH OF TRIAL

So **ORDERED** and **SIGNED** this **8** day of **December, 2004**.



LEONARD DAVIS
UNITED STATES DISTRICT JUDGE