

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC.,

Plaintiff,

v.

CAREERBUILDER LLC, et al.,

Defendants.

CASE NO. 2:09-CV-175-TJW

**JOINT MOTION TO MODIFY THE DOCKET CONTROL ORDER PURSUANT TO
FED. R. CIV. P. 16(b)(4)**

Defendants Disney Online and IAC Search & Media, Inc. jointly move with Plaintiff Beneficial Innovations, Inc. (collectively “the Parties”) to modify the Court’s Docket Control Order from October 25, 2010 under Fed. R. Civ. P. 16(b)(4). Dkt. 166. The only defendants remaining in the case are Disney Online and IAC Search & Media, Inc. Currently, the Parties have reached an agreement in principal to settle this matter and are drafting settlement agreements. The Parties, therefore, seek the Court’s leave to extend the upcoming deadlines. In order to accommodate the extensions, the Parties propose the following modifications to the Court’s Docket Control Order as shown below. The proposed modifications will not affect any hearing date in front of the Court, including the Court’s dates for the *Markman* hearing on September 27, 2011 and jury selection for trial on September 4, 2012.

Description	Date (Original)	Date (Proposed)
Jury Selection - 9:00 a.m. in Marshall, Texas	September 4, 2012	Unchanged
Final Pretrial Conference - 9:30 a.m. in Marshall, Texas	August 20, 2012	Unchanged
The parties are ordered to meet and confer on their		

Description	Date (Original)	Date (Proposed)
respective motions in limine and advise the court of any agreements in this regard by 3:00 p.m. the business day before the pretrial conference. The parties shall limit their motions in limine to those issues which, if improperly introduced into the trial of the case would be so prejudicial that the court could not alleviate the prejudice with appropriate instruction(s).		
Objections to Witnesses, Deposition Designations, and Exhibits contained in the Joint Final Pretrial Order and Counter-Deposition Designations due	August 6, 2012	Unchanged
Joint Final Pretrial Order, Joint Proposed Jury Instructions and Form of the Verdict	July 23, 2012	Unchanged
Motions in Limine due	July 23, 2012	Unchanged
Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at lsimmons@yahoo.com .	July 23, 2012	Unchanged
Defendants to Identify Trial Witnesses	July 23, 2012	Unchanged
Plaintiff to Identify Trial Witnesses	July 9, 2012	Unchanged
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.	May 30, 2012	Unchanged
Mediation to Be Completed	May 25, 2012	Unchanged
Deadline for filing Dispositive Motions and any other motions that may require a hearing (including <i>Daubert</i> motions)	May 2, 2012 or 80 days after claim construction ruling (whichever is later)	Unchanged

Description	Date (Original)	Date (Proposed)
Discovery Deadline	April 2, 2012 or 65 days after claim construction ruling (whichever is later)	Unchanged
Designate Rebuttal Expert Witnesses other than claims construction Rebuttal expert witness report due (Refer to Discovery Order for required information.)	January 20, 2012 or 50 days after claim construction ruling (whichever is later)	Unchanged
Party with the burden of proof to designate Expert Witnesses other than claims construction Expert witness report due (Refer to Discovery Order for required information.)	December 23, 2011 or 35 days after claim construction ruling (whichever is later)	Unchanged
Fact discovery deadline	November 23, 2011 or 30 days after claim construction ruling (whichever is later)	Unchanged
Comply with P.R. 3-7 re: willfulness	October 19, 2011 or 15 days after claim construction ruling (whichever is later)	Unchanged
Claim construction hearing 9:00 a.m., Marshall, Texas.	September 27, 2011	Unchanged
Comply with P.R. 4-5(d)	September 16, 2011	Unchanged
Comply with P.R. 4-5(c)	August 19, 2011	September 9, 2011
Comply with P.R. 4-5(b)	August 12, 2011	September 2, 2011
Parties to inform court if no disputes concerning	August 11, 2011	September 5,

Description	Date (Original)	Date (Proposed)
privileged documents or information		2011
Comply with P.R. 4-5(a)	July 29, 2011	August 19, 2011
Comply with P.R. 4-4 (Discovery deadline-claims construction issues)	July 22, 2011	August 12, 2011
Comply with P.R. 4-3	July 1, 2011	August 5, 2011
Respond to Amended Pleadings	July 1, 2011	August 1, 2011
Privilege Logs to be exchanged by parties	June 17, 2011	August 5, 2011
Amend Pleadings (It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings except to the extent the amendment seeks to add a new patent in suit. It is necessary to file a Motion for Leave to Amend after the amended pleadings date set forth herein.)	June 10, 2011	June 30, 2011
Join Additional Parties	June 10, 2011	June 30, 2011
Comply with P.R. 4-2	June 3, 2011	July 29, 2011
Comply with P.R. 4-1	May 20, 2011	July 15, 2011
Comply with P.R. 3-3 and 3-4	May 13, 2011	July 8, 2011

DATE: May 12, 2011

By /s/ Kevin A. Smith

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By: /s/ Julien A. Adams (with permission)

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ATTORNEYS FOR PLAINTIFF,
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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on May 12, 2011. Any other counsel of record will be served by first class mail.

/s/ Kevin A. Smith