IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

i.think inc.,

Plaintiff,

v.

MINEKEY, INC., et al.,

Defendant.

CIVIL ACTION NO.

3:CV-08-0163-P

ORDER REQUIRING ATTORNEY CONFERENCE AND PROPOSAL FOR CONTENTS OF SCHEDULING AND DISCOVERY ORDER

Pursuant to Fed. R. Civ. P. 16(b) (as amended effective December 1, 2000), and the court's Civil Justice Expense and Delay Reduction Plan, the Court enters this order to promote possible early settlement of this action and to facilitate subsequent entry of a Scheduling and Discovery Order.

I.

Lead counsel for each party (or a designee attorney with appropriate authority) shall personally meet at a mutually agreeable location at least 14 days before the date specified in VII of this order. Counsel shall determine in good faith whether this case can be settled before additional expenses are incurred. Counsel shall also submit a Joint Proposal For Contents of Scheduling And Discovery Order. The Joint Proposal shall include a status report setting out the progress made at the meeting and the present status of settlement negotiations. (In a nonjury case, the parties shall not disclose settlement figures.) The parties shall also advise the court regarding the advisability of referring the case for mediation.

II.

If the case does not settle, counsel shall submit a joint Proposal that contains the following:

(1) A proposed time limit to file motions for leave to join other parties and to amend the pleadings;
(2) Proposed time limits to file various types of motions;
(3) A proposed plan and schedule for discovery, including a time limit to complete discovery;
(4) A proposal for limitations, if any, to be placed upon discovery;
(5) A proposed time limit to designate expert witnesses;
(6) A proposed trial date, estimated number of days required for trial and whether a jury has been demanded.
(7) A proposed date for commencing settlement negotiations;
(8) Whether the parties will consent to trial (jury or non-jury) before U. S. Magistrate Judge Paul D. Stickney (NOTE: Before responding to this

question, counsel are directed to carefully review the provisions of 28 U.S.C.A. 636(c) and, specifically, 636(c)(3));

(9) Whether the parties are considering mediation or arbitration to resolve this litigation and if not, why not. (NOTE: The Court encourages the early use of mediation or arbitration.);

(10) Any other proposals regarding scheduling and discovery that the parties believe will facilitate expeditious and orderly preparation for trial; and

(11) Any other matters relevant to the status and disposition of this case.

III.

Lead counsel for plaintiff is responsible for initiating contact with opposing counsel for the purpose of preparing the Proposal, but lead counsel for all parties are equally responsible for seeing that this order is complied with in a timely manner. At least one counsel for each party shall sign the Proposal prior to filing.

IV.

If counsel cannot agree on a particular recommendation, the Proposal shall set forth each party's respective recommendation and shall state why agreement could not be reached.

V.

Because the Court is to enter a Scheduling Order "as soon as practicable but in any event within 90 days after the appearance of a defendant and within 120 days after the complaint has been served on a defendant," see Fed. R. Civ. P. 16(b), any request for an extension of time to file the Proposal shall be viewed with disfavor and shall be denied absent a showing of good cause.

VI.

Unless a scheduling conference is set by the Court or requested by a party, the Scheduling And Discovery Order will be issued following the Court's review of the Proposal. **Once the Scheduling Order has been issued, requests for extensions of these deadlines will be viewed with disfavor and will be denied, absent a showing of good cause**.

VII.

The court enlarges the 10-day report deadline of Rule 26(f) so that the Proposal shall be filed on or before **October 15, 2008**.

IT IS SO ORDERED.

Signed September 9, 2008.

JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE