
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION

Public Engines, Inc.,
Plaintiff,
v.
ReportSee, Inc.,
Defendant.

SCHEDULING ORDER

Case No. 2:10cv317
District Judge Tena Campbell

Pursuant to Fed.R. Civ P. 16(b), the following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

| 1. | PRELIMINARY MATTERS | DATE |
|-----------|---|---------------|
| | Nature of claims and any affirmative defenses: | |
| a. | Was Rule 26(f)(1) Conference held? | 07/15/10 |
| b. | Has Attorney Planning Meeting Form been submitted? | no |
| c. | Was 26(a)(1) initial disclosure completed? | 07/22/10 |
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | Maximum Number of Additional Depositions by Plaintiff | <u>7</u> |
| b. | Maximum Number of Additional Depositions by Defendant | <u>7</u> |
| c. | Maximum Number of Hours for Each Deposition (unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Additional Interrogatories by Each Party | <u>15</u> |
| e. | Maximum Requests for Admissions by any Party to any Party | <u>N/A</u> |
| f. | Maximum Additional Requests for Production by Each Party | <u>20</u> |
| g. | Discovery of electronically stored information should be handled as follows: | |

The parties will not in the first instance undertake the process of restoring or searching inaccessible data. Inaccessible data includes data only existing on backup tapes. If a party identifies the need for obtaining inaccessible data, they will work in good faith to resolve the issue. All data produced will be in image format and will be searchable. If a party identifies the need for a native document to be produced (such as spreadsheets)

they will discuss the needs of such a native production and work in good faith to resolve the issue.

h.

Claim of privilege or protection as trial preparation material asserted after production shall be handled as follows:

The parties agree to a “clawback” and non-waiver agreement, specifically, that the production of any document or data that is subject to a claim of privilege or of protection as work product shall not be deemed to be, or serve as a basis for claiming, a waiver of the privilege or of any protection from discovery. Documents that a party claims as privileged or protected shall be immediately returned upon the request of the disclosing party without the need to show the production was inadvertent.

| | | |
|-----------|--|-----------------------|
| 3. | AMENDMENT OF PLEADINGS/ADDING PARTIESⁱ | DATE |
| a. | Last Day to File Motion to Amend Pleadings | <u>10/29/10</u> |
| b. | Last Day to File Motion to Add Parties | <u>10/29/10</u> |
| 4. | RULE 26(a)(2) REPORTS FROM EXPERTSⁱⁱ | DATE |
| a. | Plaintiff | <u>12/08/10</u> |
| b. | Defendant | <u>01/14/11</u> |
| c. | Counter reports (rebuttal matters generally will be addressed in deposition; rebuttal reports, if any, will be provided not later than 5 days prior to expert’s deposition) | <u>N/A</u> |
| 5. | OTHER DEADLINES | DATE |
| a. | Discovery to be completed by: | |
| | Fact discovery | <u>12/01/10</u> |
| | Expert discovery | <u>01/28/11</u> |
| b. | (<i>optional</i>) Final date for supplementation of disclosures and discovery under Rule 26 (e) | <u>N/A</u> |
| c. | Deadline for filing dispositive or potentially dispositive motions | <u>12/15/10</u> |
| 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | DATE |
| a. | Referral to Court-Annexed Mediation: | <u>No</u> |
| b. | Referral to Court-Annexed Arbitration | <u>No</u> |
| c. | Evaluate case for Settlement/ADR on | |
| d. | Settlement probability: <i>Specify # of days for Bench or Jury trial as appropriate.</i> <i>Shaded areas will be completed by the court.</i> | |
| 7. | TRIAL AND PREPARATION FOR TRIAL | TIME DATE |
| a. | Rule 26(a)(3) Pretrial Disclosures ⁱⁱⁱ | |
| | Plaintiff | <u>00/00/00</u> |
| | Defendant | <u>00/00/00</u> |
| b. | Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule) | <u>N/A</u> |

| | | | |
|----|--|---------------|---------------------------|
| c. | Special Attorney Conference ^{iv} on or before | | <u>00/00/00</u> |
| d. | Settlement Conference ^v on or before | | <u>00/00/00</u> |
| e. | Final Pretrial Conference | | <u>00/00/00</u> |
| f. | Trial | <u>Length</u> | |
| | i. Bench Trial | <u># days</u> | <u>__:___.m. 00/00/00</u> |
| | ii. Jury Trial | <u>3 days</u> | <u>__:___.m. 00/00/00</u> |

8. OTHER MATTERS

To the extent not covered above, the parties shall comply with any deadlines or limitations set forth in their Attorneys’ Planning Meeting Report. Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this _____ day of July, 2010.

BY THE COURT:

ⁱ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

ⁱⁱ A party shall disclose the identity of each testifying expert and the subject of each such expert’s testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

ⁱⁱⁱ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

^{iv} The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

^v The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.