UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DOCUMENT SECURITY SYSTEMS, INC.
 	
            Plaintiff(s),
 	
    v.
 	
CREE, INC.
 	
            Defendant(s).
	CASE NO:
	2:17–cv–04263–JVS–JCG
	
	INITIAL ORDER FOLLOWING FILING OF COMPLAINT ASSIGNED TO JUDGE SELNA

> **Important Notice: The Court posts tentative law and motions rulings to the internet. Please see Section P, below**

COUNSEL FOR PLAINTIFF SHALL SERVE THIS ORDER ON ALL

DEFENDANTS AND/OR THEIR COUNSEL ALONG WITH THE SUMMONS

AND COMPLAINT, OR IF THAT IS NOT PRACTICABLE AS SOON AS

POSSIBLE THEREAFTER. IF THIS CASE WAS ASSIGNED TO THIS

COURT AFTER BEING REMOVED FROM STATE COURT, THE

DEFENDANT WHO REMOVED THE CASE SHALL SERVE THIS ORDER

ON ALL OTHER PARTIES.

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This case has been assigned to the calendar of Judge James V. Selna. The intent of this Order is to ensure that this case will proceed so as "to secure [a] just, speedy and inexpensive determination." (Fed.R.Civ. P., Rule 1.)

A.   THE COURT'S ORDERS

Copies of Judge Selna's orders that may have specific application to this case are available on the Central District of California website. See ¶ N. Those orders include the following:

      (1)   Order Setting Rule 26(f) Scheduling Conference

      (2)   Order re Civil Jury Trials

      (3)   Order re Civil Court Trials

      (3)   Order re RICO Case Statement

B.   SERVICE OF PLEADINGS

Although Fed.R.Civ.P., Rule 4(m) does not require the summons and complaint to be served for as much as 120 days, the Court expects that the initial pleadings will be served much sooner than that, and will require plaintiff to show cause before then if it appears that there is undue delay.

C.   ASSIGNMENT TO A MAGISTRATE JUDGE

Under 28 U.S.C. § 636, the parties may consent to have a Magistrate Judge preside over all proceedings, including trial. The Magistrate Judges who accept those designations are identified on the Central District's website, which also contains the consent form. See ¶ N.

D.   EX PARTE PRACTICE

Ex parte applications are solely for extraordinary relief and should be used with discretion. See Mission Power Engineering Company v. Continental Casualty Co., 883 F. Supp. 488 (C. D. Cal. 1995). The Court will generally decide *ex parte* matters on the papers. Opposition to an *ex parte* application, if any, should be submitted within 24 hours.

E.   APPLICATIONS AND STIPULATIONS FOR EXTENSIONS OF TIME

No stipulations extending scheduling requirements or modifying applicable rules are effective until and unless the Court approves them. Both applications and stipulations must set forth:

1.   The existing due date or hearing date;

2.   Specific, concrete reasons supporting good cause for granting the extension. In this regard, a statement that an extension "will promote settlement" is insufficient. The requesting party or parties must indicate the status of ongoing negotiations: Have written proposals been exchanged? Is counsel in the process of reviewing a draft settlement agreement? Has a mediator been selected?

3.   Whether there have been prior requests for extensions, and whether these were granted or denied by the Court.

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F.   **TROs AND INJUNCTIONS**

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3   Parties seeking emergency or provisional relief shall comply with

4 F.R.Civ.P., Rule 65 and Local Rule 65. The Court will not rule on any

5 application for such relief for at least 24 hours after the party subject to the

6 requested order has been served; such party may file opposing or responding

7 papers in the interim.

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9   ### G.   **CASES REMOVED FROM STATE COURT**

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11   All documents filed in state court, including documents appended to

12 the complaint, answers and motions, must be refiled in this Court as a supplement

13 to the Notice of Renewal, if not already included. See 28 U.S.C. § 1447(a),(b). If

14 the defendant has not yet answered or moved, the answer or responsive pleading

15 filed in this Court must comply with the Federal Rules of Civil Procedure and the

16 Local Rules of the Central District. If before the case was removed a motion was

17 pending in state court, it must be re−noticed in accordance with Local Rule 7.

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19   ### H.   **STATUS OF FICTITIOUSLY NAMED DEFENDANTS**

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21   This Court intends to adhere to the following procedures where a matter

22 is removed to this Court on diversity grounds with fictitiously named defendants.

23 (See 28 U.S.C. §§ 1441(a) and 1447.)

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25   1.   Plaintiff is normally expected to ascertain the identity of and

26 serve any fictitiously named defendants within 120 days of the removal of the action

27 to this Court.

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2.   If plaintiff believes (by reason of the necessity for discovery or otherwise) that fictitiously named defendants cannot be fully identified within the 120–day period, an *ex parte* application requesting permission to extend that period to effectuate service may be filed with this Court. Such application shall state the reasons therefor, and may be granted upon a showing of good cause. The *ex parte* application shall be served upon all appearing parties, and shall state that appearing parties may comment within seven (7) days of the filing of the *ex parte* application.

3.   If plaintiff desires to substitute a named defendant for one of the fictitiously named parties, plaintiff first shall seek to obtain consent from counsel for the previously–identified defendants (and counsel for the fictitiously named party, if that party has separate counsel). If consent is withheld or denied, plaintiff may apply *ex parte* requesting such amendment, with notice to all appearing parties. Each party shall have seven calendar days to respond. The *ex parte* application and any response should comment not only on the substitution of the named party for a fictitiously named defendant, but on the question of whether the matter should thereafter be remanded to the Superior Court if diversity of citizenship is destroyed by the addition of the new substituted party. *See* U.S.C. § 1447(c), (d).

I.   BANKRUPTCY APPEALS

Counsel shall comply with the ORDER RE PROCEDURE TO BE FOLLOWED IN APPEAL FROM BANKRUPTCY COURT issued at the time the appeal is filed in the District Court.

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