

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ORDER SETTING RULE 26(f)
SCHEDULING CONFERENCE

Monday, August 21, 2017 at 11:30
AM

This case has been assigned to Judge James V. Selna. If plaintiff has not already served the complaint (or any amendment thereto) on all defendants, plaintiff shall promptly do so and shall file proofs of service within three days thereafter. Defendants also shall timely serve and file their responsive pleadings and file proofs of service within three days thereafter.

This matter is set for a scheduling conference on the above date. The conference will be held pursuant to Fed.R.Civ.P., Rule 16(b). The parties are reminded of their obligations under Fed.R.Civ.P., Rule 26(a)(1) to disclose information (without awaiting a discovery request) and under Rule 26(f) to confer

///

1 on a discovery plan not later than twenty-one (21) days prior to the scheduling
2 conference and to file a Joint Rule 26(f) Report not later than fourteen (14) days
3 after they confer. Failure to comply with the following requirements or to
4 cooperate in the preparation of the Joint Rule 26(f) Report may lead to the
5 imposition of sanctions.

6
7 **Unless there is a likelihood that upon motion by a party the**
8 **Court would order that any or all discovery is premature, it is advisable for**
9 **counsel to begin to conduct discovery actively before the Scheduling**
10 **Conference. At the very least, the parties shall comply fully with the letter**
11 **and spirit of Rule 26(a) and thereby obtain and produce most of what would**
12 **be produced in the early stage of discovery.**

13
14 **1. Joint Rule 26(f) Report.**

15
16 The Joint Rule 26(f) Report, which shall be filed not later than one
17 week before the scheduling conference, shall be drafted by plaintiff (unless the
18 parties agree otherwise), but shall be submitted and signed jointly. "Jointly"
19 contemplates a single report, regardless of how many separately-represented
20 parties there are. The Joint Rule 26(f) Report shall report on all matters
21 enumerated below, which include those required to be discussed by Rule 26(f)
22 and Local Rule 26:

- 23
24 a. Synopsis: a short synopsis (not to exceed two pages) of the main
25 claims, counterclaims, and/or affirmative defenses.
26 b. Legal issues: a brief description of the key legal issues.
27 c. Damages: the realistic range of provable damages.

28 ///

- 1 d. Insurance: whether there is insurance coverage, the extent of
2 coverage, and whether there is a reservation of rights.
- 3 e. Motions: a statement of the likelihood of motions seeking to (i) add
4 other parties or claims or (ii) file amended pleadings or (iii) transfer
5 venue.
- 6 f. Discovery and experts: pursuant to Rule 26(f), state what, if any,
7 changes in the disclosures under R. 26(a) should be made; the
8 subjects on which discovery may be needed and whether discovery
9 should be conducted in phases or otherwise be limited; what
10 discovery has been conducted thus far; whether applicable
11 limitations should be changed or other limitations imposed; and
12 whether the Court should enter other orders. Please state how many
13 depositions each side will conduct. Also discuss the proposed time
14 of expert witness disclosures under F.R.Civ.P. 26(a)(2).
- 15 g. Dispositive motions: a description of the issues or claims that any
16 party believes may be determined by motion for summary judgment
17 or motion *in limine*.
- 18 h. Settlement and settlement mechanism: a statement of what settlement
19 discussions and/or written communications have occurred (specifically
20 excluding any statement of the terms discussed) and a statement
21 pursuant to the Local Rule 16–14.4 selecting a settlement mechanism
22 under that rule.
- 23 i. Trial estimate: realistic estimate of the time required for trial and
24 whether trial will be by jury or by court. Each side should specify
25 (by number, not by name) how many witnesses it contemplates
26 calling. If the time estimate for trial given in the Rule 26(f) Joint
27 Report exceeds eight court days, counsel shall be prepared to discuss
28 in detail the estimate

1 j. Timetable: complete of the Presumptive Schedule of Pretrial Dates
2 form attached as Exhibit A to this Order and attach it to the Rule 26(f)
3 report. Submission of a completed Exhibit A is mandatory. The current
4 entries in the "Weeks Before Trial" column merely reflect what the
5 Court believes are appropriate for many, if not most, cases; those entries
6 are not necessarily applicable to this case, and the form is designed to
7 enable counsel to request the Court to set different last dates by which
8 the key requirements must be completed. Each side should write in the
9 month, day and year it requests for each event. *E.g.*, for the expert
10 discovery cut-off it might be "10/7/02" for plaintiff and "10/28/02" for
11 defendant, if they cannot agree. At the conference, the Court will review
12 this form with counsel. Each entry proposing dates shall fall on a
13 Monday, except the trial date which is a Tuesday. In appropriate cases
14 the Court will order different dates after it hears from Counsel. The
15 proposed non-expert and expert discovery cut-off date means: the last
16 day by which all depositions must be completed and responses to all
17 previously-served written discovery must be provided. The proposed
18 cut-off date for motions means: the last date on which motions may
19 be heard, not noticed.

20 k. Other issues: a statement of any other issues affecting the status or
21 management of the case (*e.g.*, unusually complicated technical or
22 technological issues, disputes over protective orders, extraordinarily
23 voluminous document production, non-English speaking witnesses,
24 discovery in foreign jurisdictions, etc.).

25 l. Conflicts: for conflict purposes, corporate parties must identify all
26 subsidiaries, parents and affiliates.

27 ///

28 //

1 m. Patent cases: propose dates and methodology for claim construction
2 and *Markman* hearings. The Court requires the parties to file
3 concurrent opening briefs and concurrent reply briefs for the hearing.
4 The Court intends to follow the rule for patent cases which have
5 been adopted by the Northern District of California.

6 n. Magistrates: Do the parties wish to have a Magistrate Judge preside?
7 Under 28 U.S.C. § 636, the parties may consent to have a Magistrate
8 Judge preside over all the proceedings, not just discovery. They may
9 pick *any* Magistrate Judge (not just the one assigned to this case)
10 from among those Magistrate Judges who accept these designations.
11 (They are identified on the Central District's website, which also
12 contains the consent form.)

13
14 The Joint Rule 26(f) Report should set forth the above enumerated information
15 under section headings corresponding to this Order.

16
17 **2. Scheduling Conference.**

18
19 Scheduling Conferences will be held in the Ronald Reagan Building,
20 411 West Fourth Street, Court Room 10C, Santa Ana. Counsel shall comply with
21 the following:

- 22
23 a. Participation: The lead trial attorney must attend the Scheduling
24 Conference, unless excused for good cause shown in advance of the
25 Scheduling Conference.
- 26 b. Continuance: A continuance of the Scheduling Conference will be
27 granted only for good cause.

28 ///

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.