

EXHIBIT E

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 NETWORK-1 TECHNOLOGIES, INC.,

4 Plaintiff,

5 v.

14 CV 2396 (PGG)

14 CV 9558 (PGG)

6 GOOGLE LLC, *et ano*,

7 Defendants.

CONFERENCE

8 -----x

New York, N.Y.
January 24, 2019
10:10 a.m.

9
10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13 APPEARANCES

14 RUSS AUGUST & KABAT
Attorneys for Plaintiff

15 BY: MARC A. FENSTER

-AND-

16 AMSTER ROTHSTEIN & EBENSTEIN
17 BY: CHARLES R. MACEDO

18 WILLIAMS & CONNOLLY
Attorneys for Defendants

19 BY: KEVIN HARDY
ANDREW TRASK

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1 THE DEPUTY CLERK: Calling the case of *Network-1*
2 *Technologies, Inc. v. Google LLC, et al.*

3 Is the plaintiff ready?

4 MR. FENSTER: Yes.

5 THE DEPUTY CLERK: Please state your appearances.

6 MR. FENSTER: Good morning, your Honor.

7 Marc Fenster with Russ, August & Kabat, on behalf of
8 plaintiff.

9 With me is Charles Macedo from Amster Rothstein.

10 THE DEPUTY CLERK: Defendant ready?

11 MR. HARDY: Yes, we are.

12 THE DEPUTY CLERK: Please state your appearance.

13 MR. HARDY: Kevin Hardy from Williams & Connolly.

14 With me is Andrew Trask, also with Williams &
15 Connolly.

16 THE COURT: All right.

17 This case has been long delayed as a result of related
18 proceedings in the patent office and then appeals related to
19 what was going on there.

20 The parties recently agreed that the stays on the
21 matters pending before me could be lifted, and they have
22 submitted a lengthy stipulation concerning a wide variety of
23 matters. Let me just address one.

24 And that is, I believe there's a stipulation that
25 Counts Three and Four from the case ending in 2396, that those

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1 Counts Three and Four should be dismissed without prejudice.

2 Is that correct?

3 MR. FENSTER: Yes, your Honor.

4 THE COURT: All right.

5 So I am going to enter an order today dismissing
6 Counts Three and Four of the complaint in Docket No.
7 14 CV 2396. I'll be dismissing those complaints without
8 prejudice on consent.

9 The parties have submitted a proposed case management
10 plan which, as always in patent cases, is quite lengthy. The
11 proposal is that fact discovery continue through September of
12 this year.

13 Let me inquire of plaintiff what exactly fact
14 discovery is going to look like, how many depositions are
15 likely to be taken, etc.?

16 MR. FENSTER: Good morning, your Honor.

17 So just to recap, from the first case we had completed
18 most of the discovery at the time of the stay back in 2015; and
19 the second case regarding the '464, discovery had yet to begin.

20 So now the parties have agreed to consolidate the
21 cases and extend discovery through September. So we'll be
22 taking additional depositions primarily related to updating the
23 technology.

24 So Google has changed their system, made some changes
25 to the accused system that were contemplated at the time, and

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1 have now been implemented. So we'll have a few tech
2 depositions, some regarding licensing and damages, and so I
3 anticipate maybe five to seven depositions or so.

4 We've agreed that the discovery that was exchanged and
5 conducted in connection with the first case applies to the
6 second case, so the parties won't be duplicating any of the
7 discovery that had been previously done.

8 So there will be some written updated discovery with
9 respect to the '464. There's still some document discovery
10 that needs to be done. Most specifically, updating the
11 technical documents, some damages documents, and the source
12 code have not yet been produced. Prior to the stay, the
13 parties had reached an agreement regarding what source code
14 would be produced and some of the procedures around that at the
15 time of the stay. So source code will be a big part of the
16 ongoing discovery.

17 THE COURT: All right. Let me give the same question
18 to defense counsel: How do you see fact discovery proceeding,
19 and why is it necessary for it to continue through September of
20 this year?

21 MR. HARDY: Sure.

22 So Kevin hardy for the defendants, your Honor.

23 I believe Mr. Fenster has accurately summarized the
24 state of play.

25 I think significantly, for purposes of the timing for

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