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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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)	
Plaintiff(s),)	No.
v.)	
)	SETTLEMENT CONFERENCE
)	ORDER - PATENT CASE
)	
Defendant(s).)	
)	
)	

The above matter was referred to me for settlement purposes.

On _____, I conducted a telephonic hearing at which both sides were represented by counsel. With the consent of the parties and good cause appearing, **IT IS HEREBY ORDERED** that no later than _____, _____, shall meet in person, preferably outside the presence of counsel, to discuss a resolution of this dispute. They shall meet in _____ or in any other place to which they both agree. The principals are urged to explore

1 a creative, business resolution of their dispute. If the
2 case settles, the parties are to notify the Court
3 immediately.

4 Each party shall provide the other informally,
5 expeditiously and pursuant to Federal Rule of Evidence 408
6 with all information reasonably needed to further the
7 progress of the settlement negotiations. Confidential
8 information may be provided subject to a protective order.

9 If there is no settlement, it is **ORDERED** that a
10 telephonic
11 conference is scheduled for _____, to discuss
12 the status of the negotiations. Counsel for plaintiff shall
13 get counsel for defendant on the line and call chambers at
14 522-4093. The principals need not participate.

15 It is further **ORDERED** that a Settlement Conference is
16 scheduled for _____, in Courtroom G, 15th
17 Floor, Federal Building, 450 Golden Gate Avenue, San
18 Francisco, California 94102. Counsel who will try the case
19 shall appear at the Settlement Conference with the party
20 principals who met earlier. The negotiations will be
21 principally among the party principals in my presence.

22 Each party shall prepare a Settlement Conference
23 Statement, which must be served on opposing counsel and
24 lodged (not faxed) with my chambers no later than seven
25 calendar days prior to the conference. The Statement shall
26 **not** be filed with the Clerk of the Court. The Statement **may**
27 be submitted on CD-ROM with hypertext links to exhibits.
28 Otherwise, the portion of exhibits on which the party relies

1 **shall** be highlighted. The Settlement Conference Statement
2 shall not exceed ten pages of text and twenty pages of
3 exhibits and shall include the following:

4 1. A brief statement of the facts of the case.

5 2. A brief statement of the claims and defenses
6 including, but not limited to, statutory or other grounds
7 upon which the claims are founded.

8 3. A summary of any related litigation.

9 4. A summary of the proceedings to date and any
10 pending motions.

11 5. An estimate of the cost and time to be expended
12 for further discovery, pretrial and trial.

13 6. The relief sought, including an itemization of
14 damages.

15 7. The parties' position on settlement, including
16 present demands and offers and a history of past settlement
17 discussions. The Court's time can best be used to assist
18 the parties in completing their negotiations, not in
19 starting them. So there is no confusion about the parties'
20 settlement position, plaintiff must serve a demand in
21 writing no later than fourteen days before the conference
22 and defendant must respond in writing no later than eight
23 days before the conference. The parties are urged to
24 carefully evaluate their case before taking a settlement
25 position since extreme positions hinder the settlement
26 process.

27 Along with the Statement each party shall lodge with
28 the court a document of no more than three pages containing

1 a **candid** evaluation of the parties' likelihood of prevailing
2 on the claims and defenses, and any other information that
3 party wishes not to share with opposing counsel. The more
4 candid the parties are, the more productive the conference
5 will be. This document shall not be served on opposing
6 counsel.

7 It is not unusual for conferences to last three or more
8 hours. Parties are encouraged to participate and frankly
9 discuss their case. Statements they make during the
10 conference will not be admissible at trial in the event the
11 case does not settle. The parties should be prepared to
12 discuss such issues as:

- 13 1. Their settlement objectives.
- 14 2. Any impediments to settlement they perceive.
- 15 3. Whether they have enough information to discuss
16 settlement. If not, what additional information is needed.
- 17 4. The possibility of a creative resolution of the
18 dispute.

19 The parties shall notify chambers immediately if this
20 case settles prior to the date set for settlement
21 conference. Counsel shall provide a copy of this order to
22 each party who will participate in the conference.

23 Dated: August 28, 2001

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Bernard Zimmerman
United States Magistrate Judge