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NEO4J, INC. and NEO4J SWEDEN AB

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NEO4J, INC., a Delaware corporation, and NEO4J SWEDEN, AB, a Swedish corporation,

Plaintiffs,

v.

PURETHINK LLC, a Delaware limited liability company, IGOV INC., a Virginia corporation, and JOHN MARK SUHY, an individual,

Defendants.

AND RELATED COUNTERCLAIMS.

CASE NO. 5:18-cv-07182-EJD

STIPULATION AND ~~[PROPOSED]~~ ORDER FOR SECOND MODIFICATION OF THE PHASE 1 CASE SCHEDULE

NEO4J, INC., a Delaware corporation, and NEO4J SWEDEN AB, a Swedish corporation,

Plaintiffs,

v.

GRAPH FOUNDATION, INC., an Ohio corporation, GRAPHGRID, INC., an Ohio corporation, and ATOMRAIN INC., a Nevada corporation,

Defendants.

CASE NO. 5:19-cv-06226-EJD

STIPULATION

Plaintiff and Counter-Defendants Neo4j, Inc. and Neo4j Sweden AB (collectively "Plaintiffs"), Defendants and Counterclaimants PureThink LLC and iGov, Inc. and Defendant John Mark Suhy (collectively the "PureThink Defendants") in the action entitled *Neo4j, Inc. et al v. PureThink LLC et al*. Case No. 5:18-cv-07182-EJD ("PureThink Action") and Defendants Graph Foundation, Inc. ("GFI"), GraphGrid, Inc. and AtomRain Inc. in the related action entitled *Neo4j, Inc. v. Graph Foundation, Inc.*, Case No. 3:19-cv-06226-EJD ("GFI Action"), by and through the parties' respective attorneys, hereby submit this stipulation regarding the case schedule as follows:

1. On April 10, 2020, the Court granted the parties' stipulation concerning the claims, counterclaims and affirmative defenses ("Phase 1 Issues") that would be subject to the first motions for summary judgment/adjudication filed by each party. *See* PureThink Action, Dkt. No. 68; GFI Action, Dkt. No. 45. This stipulation also set forth the case schedule for Phase 1.

2. On July 16, 2020, the Court granted the parties' stipulation further clarifying the scope of the Phase 1 Issues and adjusting the Phase 1 schedule to allow the Court sufficient time to rule on Neo4j USA's motion to dismiss challenging the viability of PureThink Defendants' trademark abandonment counterclaim and affirmative defense. *See* PureThink Action, Dkt. No. 82; GFI Action, Dkt. No. 63.

3. On July 16, 2020, the Court also granted Plaintiffs leave to file their First Amended Complaint ("FAC") in the GFI Action. *See* GFI Action, Dkt. No. 64.

4. On August 21, 2020, the Defendants in the GFI Action filed motions to dismiss certain claims asserted against them in the FAC. *See* GFI Action, Dkt. Nos. 74-75. These motions are currently set to be heard by this Court on October 29, 2020, which is three days after the deadline for Plaintiffs to file their consolidated motion for summary judgment on the Phase 1 Issues. *See* PureThink Action, Dkt. No. 82; *see also* GFI Action, Dkt. No. 63.

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5. GFI's motion, in part, seeks to dismiss Plaintiffs' claims based on GFI's alleged violations of the Digital Millennium Copyright Act and the breach of a license agreement. *See id.*, Dkt. No. 75. The parties acknowledge that the Court's ruling on GFI's motions may potentially affect the scope of the Phase 1 Issues. Defendants GraphGrid, Inc. and AtomRain Inc. were added to the GFI Action in the First Amended Complaint, and in the pending motions to dismiss, they have moved to dismiss all claims against each of them, thus the pending motion may result in their dismissal from the case. To the extent GraphGrid, Inc. and/or AtomRain Inc. remain in the case after the adjudication of the motion to dismiss, no scheduling order has yet been entered regarding these Defendants, and they are not subject to the scheduling order addressed below.

6. The parties agree that because the Court's ruling on GFI's pending motion to dismiss may affect the scope of the Phase 1 Issues, the briefing schedule and hearing for Phase 1 should be modestly extended to allow the Court time to rule on GFI's motion and for the parties to settle the pleadings, if necessary, thereafter. The parties further agree that such an extension is in the interest of judicial economy because it may potentially streamline the Phase 1 Issues subject to the Phase 1 summary judgement proceedings.

7. The parties agree that because several outstanding Phase 1 fact discovery issues remain unresolved, the time for the parties to seek any necessary relief via discovery motions should be extended. Likewise, the parties agree to allow Plaintiffs to schedule the previously noticed Rule 30(b)(6) depositions of GFI and iGov Inc. after the September 14, 2020 fact discovery cutoff, and that the depositions shall be scheduled and completed by October 23, 2020.

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8. In light of the foregoing, the Parties respectfully request that the Court modify the current case schedule in both the PureThink Action and GFI Action as follows:

Event	Current Deadline	Proposed Deadline
Last Day to File Fact Discovery Motions for Phase 1 Issues[1]	September 21, 2020	October 30, 2020
Last Day for Neo4j USA to file its combined motion for summary judgment, partial summary judgment and/or summary adjudication on Phase 1 Issues in the PureThink and GFI Actions	October 26, 2020	December 11, 2020
Last Day for Defendants to file their combined opening motion for summary judgment, partial summary judgment and/or summary adjudication and opposition for Phase 1 Issues in the PureThink and GFI Actions	November 23, 2010	January 15, 2021
Last Day for Neo4j USA to file its combined opposition/reply in the PureThink and GFI Actions	December 23, 2020	February 15, 2021
Last Day for Defendants to file their combined reply brief in the PureThink and GFI Actions	January 15, 2020	March 8, 2021
Hearing on motions for summary judgment, partial summary judgment and/or summary adjudication and a further Case Management Conference to set the schedule for Phase 2 in the PureThink and the GFI Actions	January 28, 2021	March 25, 2021~~, or the earliest available date thereafter~~

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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[1] The parties agree and understand that a failure to move to compel on any discovery propounded prior to this time does not prejudice their right to seek relief relating to such discovery during Phase 2 of the proceedings.

Dated: September 9, 2020

HOPKINS & CARLEY
A Law Corporation

By: */s/ Jeffrey M. Ratinoff*
Jeffrey M. Ratinoff
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Dated: September 9, 2020

/s/ Adron W. Beene
Adron W. Beene
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Dated: September 9, 2020

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Dated: September 9, 2020

SKAGGS FAUCETTE LLP

By: */s/ Jeffrey E. Faucette*
Jeffrey E. Faucette
Attorneys for Defendants GRAPHGRID, INC. and ATOMRAIN INC.

IT IS SO ORDERED.

Dated: September 10, 2020

EDWARD J. DAVILA
United States District Court Judge