



Defendant L1 Technologies, Inc.; Brian E. Moran, counsel for Defendant Links Point, Inc.; Donald C. Templin and Thomas J. Fisher, counsel for Defendant SkyHawke Technologies, LLC; and Jordan T. Fowles, counsel for Tee2Green Technologies, Pty Ltd.

The Parties respectfully submit the following Joint Status Report on each of the matters set forth in the Court's Order and Miscellaneous Order No. 62, ¶2-1 of the Northern District of Texas as follows:

**I.**  
**COURT'S ORDER**

**1. BRIEF STATEMENT OF THE CLAIMS AND DEFENSES.**

**A. Plaintiff's Statement:**

Plaintiff GPSI is the owner of all rights, title, and interest in and under United States Patent No. 5,364,093 ("the '093 Patent"), titled "Golf Distance Measuring System and Method," which was duly and legally issued on November 15, 1994. By agreement, Plaintiff Optimal is the exclusive licensee of the '093 Patent with respect to its coverage of handheld golf GPS devices. The '093 Patent is valid and enforceable. Upon information and belief, Defendants have been infringing by making, using, importing, selling, and/or offering to sell in or into the United States, without authority, products that fall within the scope of the Claims of the '093 Patent, including but not limited to, Defendants' handheld golf GPS and/or golf cart mounted GPS devices and software.

**B. Defendants' Statement:**

Defendants do not infringe any asserted claim, all the asserted claims are invalid, and the entire patent is unenforceable due to inequitable conduct.

**2. JOINDER:** (A proposed time limit to file motions for leave to join other parties.)

The Parties propose a deadline of **February 14, 2008**, for joining additional parties.

**3. AMENDED PLEADINGS:** (A proposed time limit to amend pleadings.)

The Parties propose an amended pleadings deadline of **February 14, 2008**.

**4. DISPOSITIVE MOTIONS:** (A proposed time limit to file various types of motions, including dispositive motions. The Court prefers the deadline for dispositive motions to be 120 days before trial and cannot be less than 90 days before trial.)

A. The Parties propose a discovery motion deadline of **February 26, 2009**.

B. The Parties propose a dispositive motion deadline of **July 20, 2009**.

5. **EXPERTS:** (A proposed time limit for initial designation of experts.)

The Parties propose an initial expert designation deadline of **March 2, 2009**.

6. **RESPONSIVE EXPERTS:** (A proposed time limit for responsive designations of experts.)

The Parties propose a responsive expert designation deadline of **April 2, 2009**.

7. **EXPERT OBJECTIONS:** (A proposed time limit for objections to experts (i.e. *Daubert* and similar motions).

The Parties propose that objections to experts (i.e. *Daubert* and similar motions) be filed by **July 20, 2009**.

8. **DISCOVERY PLAN:** (A proposed plan and schedule for discovery, a statement of the subjects on which discovery may be needed, a time limit to complete factual discovery and expert discovery, and a statement of whether discovery should be conducted in phases or limited to particular issues.)

A. The Parties anticipate that discovery should be completed by **January 29, 2009**.

B. **Plaintiffs' Statement:** It is anticipated at this time that discovery may be needed on the following: issues relative to infringement, liability and damages for alleged patent infringement, and Defendants' defenses.

C. **Defendants' Statement:** It is anticipated at this time that discovery may be needed on the following: issues relative to non-infringement, invalidity, and inequitable conduct.

9. **DISCOVERY LIMITATIONS:** (What changes should be made in the limitations on discovery imposed under the Federal Rules of Civil Procedure or by local rule, and what other limitations should be imposed.)

A. **Plaintiffs' Statement:** Plaintiffs do not believe any discovery limits for requests for admissions is warranted or required by the Local Rules. Further, for the purposes of interrogatories, Plaintiffs believe each party may serve up to 25 interrogatories against any other party consistent with Rule 33. Plaintiffs propose increasing Rule 30 deposition limits to thirty (30) depositions per party. With respect to depositions needing interpreters, the number of depositions hours shall be increased on a case-by-case basis, agreed upon by the Parties.

B. **Defendants' Statement:** Defendants disagree with the following discovery limits proposed by Plaintiffs. First, Defendants believe that Plaintiffs should be limited to a total of 25 interrogatories to any Defendant. As Plaintiffs are represented by the same counsel and have the same interests, they should be treated as one party for the purposes of discovery. In the same vein, because Plaintiffs are acting as

one party, Defendants would also agree to a limit of a total of 25 interrogatories that a Defendant could serve on Plaintiffs. Second, Defendants believe that there is no reason to allow an unlimited number of requests for admissions. Defendants proposed a limit of 25 requests for admissions to each Defendant, and each Defendant could serve no more than 25 requests for admissions on Plaintiffs. Defendants would be agreeable to a higher limit, if necessary, but Defendants believe that Plaintiffs' proposal that requests for admissions be unlimited is unduly burdensome and only intended to unnecessarily increase discovery costs for Defendants. Finally, Defendants see no reason to increase the number of depositions from what is allowed under the Federal Rules (especially considering that Plaintiffs are unwilling to decrease any other discovery limits in exchange for increasing the deposition limit). If none of the remaining Defendants settle this case before the close of discovery, Defendants would be willing to consider a small increase over the ten allowed under the Federal Rules, but Defendants believe that Plaintiffs' proposal that they should be allowed a **300% increase** (from 10 to 30) is completely unwarranted and will result in a massive increase in discovery costs for Defendants.

10. **TRIAL:** (A proposed trial date, estimated number of days required for trial, and whether a jury has been properly demanded; (The parties should note that the Court operates a three week docket beginning the first Monday of each month. Therefore, the parties should propose a trial date which corresponds with the first Monday of the agreed upon month.)
- A. **Plaintiffs' Statement:**
- i. Trial Date: The Plaintiffs propose a trial date of: **November 2, 2009**
  - ii. Trial days: The Plaintiffs estimate that the number of weeks for trial that they will need is: 2 weeks (or 10 trial days)
  - iii. Jury Demand: A jury has been properly demanded.
- B. **Defendants' Statement:**
- i. Trial Date: The Defendants propose a trial date of: **December 7, 2009**. Defendants believe that a December trial date is more appropriate than the Plaintiffs' proposal for a November 2, 2009, date because a) that will allow the Court a full 120 days to decide any dispositive motions that the parties may file; b) the Court allows the parties to change most of the dates in the schedule, but not the final trial date, therefore a December trial date will provide the parties with additional flexibility if they need additional time earlier in the schedule; and (c) although Plaintiffs are concerned that a December trial date could require the trial to be continued over the holidays, if the parties use the full four weeks for trial that they have requested, Defendants note that the Court only schedules three weeks for trial each month, so a four week trial will always require a one-week break before the trial completes. Finally, if Plaintiffs are concerned about a trial continuing over the holiday, Defendants propose a **January 4, 2010**, trial date.

- ii. Trial days: The Defendants estimate that the number of weeks for trial that they will need is: 2 weeks (or 10 trial days)
  - iii. Jury Demand: A jury has been properly demanded.
11. **SETTLEMENT NEGOTIATIONS:** (A proposed date for further settlement negotiations.)

A. **Plaintiffs' Statement**: The Parties have engaged in settlement negotiations. The Plaintiffs believe that they will be able to conduct meaningful settlement negotiations after they have exchanged written discovery. The Plaintiffs' arbitration proceeding has absolutely no bearing on their ability to fully prosecute the present action. If necessary, each Plaintiff is willing to submit affidavits to this effect to the Court.

B. **Defendants' Statement**: Defendants generally agree with Plaintiffs' statement except to note that Plaintiffs are apparently currently engaged in arbitration with each other to decide their respective rights to the patent-in-suit. For at least two of the Defendants, the pending arbitration amongst the Plaintiffs has resulted in an inability to engage in effective settlement negotiations. Therefore, those two Defendants intend to shortly file a motion to stay the case until Plaintiffs can complete their current arbitration so that some or all of the Defendants may be able to settle this case without incurring any further litigation costs. The other Defendants are planning to consent to that motion to stay the case pending completion of the Plaintiffs' arbitration proceedings.

12. **DISCLOSURES:** (Objections to Fed. R. Civ. P. 26(a)(1) asserted at the Scheduling Conference, and other proposed modifications to the timing, form or requirements for disclosure under Rule 26(a), including a statement as to when disclosures under Rule 26(a)(1) were made or will be made.)

The Parties propose a deadline to exchange their Initial Disclosures of **January 18, 2008**.

13. **MAGISTRATE:** (Whether the parties will consent to trial (jury or non-jury) before U.A. Magistrate Judge (consent attached).)

The Parties are not prepared to consent to a trial before a Magistrate Judge.

14. **MEDIATION:** (Whether the parties are considering mediation or arbitration to resolve this litigation and a statement of when alternative dispute resolution would be most effective (e.g. before discovery, after limited discovery, after motions are filed, etc.), and, if mediation is proposed, the name of any mediator the parties jointly recommend to mediate the case.)

A. The Parties agree arbitration is not appropriate in this matter.

B. The Parties are requesting mediation, but have not yet agreed upon a mediator. The Parties believe that mediation would be most effective after the claim construction hearing. The Parties will exchange suggested list of mediators by **May 28, 2008**.

15. **OTHER PROPOSALS:** (Any other proposals regarding scheduling and discovery that the parties believe will facilitate expeditious and orderly preparation for trial.)
  - A. **Plaintiffs' Statement:** Plaintiffs propose no change to the LR 56.2(b) requirement that a party may file no more than one motion for summary judgment.
  - B. **Defendants' Statement:** Defendants respectfully request that, in addition to the one summary judgment motion that each Defendant may file, each side be allowed to file up to one summary judgment motion regarding invalidity/validity and one summary judgment motion regarding unenforceability/enforceability.
  
16. **COURT CONFERENCE:** (Whether a conference with the Court is desired and the reasons for requesting a conference.)
  - A. **Plaintiffs' Statement:** At this early stage, the Plaintiffs do not anticipate such a conference at this time. However, Plaintiffs will request a hearing should Defendants file a Motion to Stay.
  - B. **Defendants' Statement:** Defendants reserve their right to request a hearing on the Motion to Stay.
  
17. **MISC. MATTERS & ORDERS:** (any other matters relevant to the status and disposition of the case, including any other orders that could be entered by the Court under FED.R.CIV.P. 16(b), 16(c) and 26(c).)
  - A. The Defendants will submit a Modified Protective Order in due course. Plaintiffs have not seen the Modified Protective Order at the time of the filing of this Joint Status Report.
  - B. The Parties did not discuss whether any request for reexamination would be filed with the USPTO. At least one defendant, however, is currently considering filing a request for reexamination.

## II.

### MISCELLANEOUS ORDER NO. 62, ¶2-1

#### 1. **PROPOSED MODIFICATION OF DEADLINES:**

*See* Exhibit A, to the Joint Status Report, for the corresponding deadlines pursuant to Miscellaneous Order No. 62.

#### 2. **ELECTRONIC DISCOVERY PLAN:**

The Parties will submit an Electronic Discovery Plan consistent with Defendants' Modified Protective Order in due course.

3. **TECHNICAL TUTORIALS:**

The Parties do not anticipate the need for any technical tutorials at this time.

4. **PROTECTIVE ORDER:**

The Defendants will submit a Modified Protective Order in due course.

5. **LIVE TESTIMONY:**

A. **Plaintiffs' Statement:** Plaintiffs desire the presiding judge to hear live testimony at the claim construction hearing.

B. **Defendants' Statement:** Defendants believe that extrinsic evidence based on live testimony is neither appropriate nor warranted at the claim construction hearing.

6. **DISCOVERY LIMITS:**

The Parties agree normal discovery limits will govern, subject to the limitations provided in Section I, ¶9 above.

7. **ORDER OF PRESENTATION:**

The Parties agree that Plaintiffs will present their case-in-chief first followed by Defendants. This order will repeat at the Court's discretion.

8. **CLAIM CONSTRUCTION PREHEARING CONFERENCE:**

The Parties do not anticipate such a conference at this time. However, they reserve the option to request one.

9. **FILING UNDER SEAL:**

The Parties anticipate the Modified Protective Order will adequately address any documents that will be filed under seal.

10. **EARLY AND LATE MEDIATION:**

A. The Parties agree early mediation will occur at least 30 days after the claim construction hearing.

B. The Parties agree late mediation will occur at least 60 days prior to the trial date.

Date: January 14<sup>th</sup>, 2008

Respectfully Submitted,



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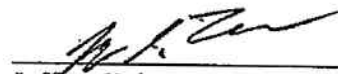
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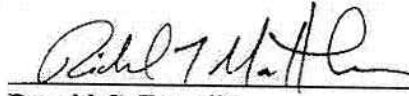
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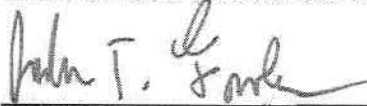
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**EXHIBIT A*****GPS Industries, Inc. et al. v. Altex et al.***

<b>DATE</b>	<b>TASK</b>
1/4/08	Scheduling Conference
1/14/08	Plaintiffs serve Miscellaneous Order No. 62, ¶ 3-1 disclosures
1/14/08	Plaintiffs serve Miscellaneous Order No. 62, ¶ 3-2 document production
1/14/08	Parties file Joint Status Report
1/18/08	Parties serve Rule 26(a)(1) initial disclosures
2/14/08	Rule 16(b)(1) deadline for amending pleadings and joining parties
2/28/08	Defendants serve Miscellaneous Order No. 62, ¶ 3-3 disclosures
2/28/08	Defendants serve Miscellaneous Order No. 62, ¶ 3-4 document production
3/10/08	Parties exchange Miscellaneous Order No. 62, ¶ 4-1(a) claim terms on asserted patents
3/20/08	Parties meet and confer under Miscellaneous Order No. 62, ¶ 4-1(b) to finalize claim terms on asserted patents
3/31/08	Parties exchange Miscellaneous Order No. 62, ¶ 4-2(a) preliminary claim constructions
3/31/08	Parties identify and produce Miscellaneous Order No. 62, ¶ 4-2(b) extrinsic evidence, including dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses, on unasserted patents
4/14/08	Parties meet and confer under Miscellaneous Order No. 62, ¶ 4-2(c) to narrow issues in preparation of Joint Claim Construction and Prehearing Statement, for both asserted and unasserted patents
4/28/08	Parties file Miscellaneous Order No. 62, ¶ 4-3 Joint Claim Construction and Prehearing Statement
5/28/08	Miscellaneous Order No. 62, ¶ 4-4 close of claim construction discovery; Parties exchange list of suggested mediators
6/12/08	Parties file Miscellaneous Order No. 62, ¶ 4-5(a) opening claim construction briefs
6/26/08	Parties file Miscellaneous Order No. 62, ¶ 4-5(b) responses to claim construction briefs
6/30/08	Parties jointly submit Miscellaneous Order No. 62, ¶ 4-5(c) claim construction chart
7/10/08	Miscellaneous Order No. 62, ¶ 4-6 Claim Construction Hearing (subject to Court availability)
8/11/08	Early mediation deadlines
11/21/08	Defendants serve Miscellaneous Order No. 62, ¶ 3-8 willfulness disclosures
12/22/08	Last day to serve fact discovery
1/29/09	Fact discovery completion deadline
2/26/09	Close of filing discovery motions
3/2/09	Exchange experts' reports on issues bearing burden of proof
4/2/09	Exchange experts' opposition reports

EXHIBIT A

4/16/09	Last day to serve expert discovery
5/18/09	Expert discovery completion deadline
7/20/09	File dispositive and <i>Daubert</i> motions
60 days prior to trial date	Late mediation deadline
14 days prior to trial date	File joint final pretrial statement; proposed jury instructions; and verdict form; L.R. 26.2 exchange of exhibits; exhibit lists, witness lists, and designation of deposition excerpts
14 days prior to trial date	File <i>in limine</i> motions and proposed <i>voir dire</i> , and trial briefs; L.R. 16.4 Pretrial Order
Nov. 2, 2009 (Plaintiffs) Dec. 7, 2009 (Defendants), or, in the alternative, Jan. 4, 2010	Jury trial begins