

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICE LTD., NICE SYSTEMS INC., and)	
MATTERSIGHT CORP.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 18-2024-RGA-SRF
)	
CALLMINER, INC.,)	
)	
Defendant.)	

STIPULATION TO AMEND SCHEDULING ORDER

WHEREAS, Defendant CallMiner, Inc.’s (“CallMiner”) Answer to Plaintiffs’ First Amended Complaint, Affirmative Defenses, and Amended Counterclaims (“Amended Counterclaims”) was entered on the docket on September 28, 2020 (D.I. 78) and included a Third Counterclaim alleging infringement of U.S. Patent No. 10,582,056 (the “’056 patent);

WHEREAS, Plaintiffs NICE Ltd., NICE Systems Inc. and Mattersight Corp. (“NICE”) moved to dismiss CallMiner’s Third Counterclaim regarding the ’056 patent (D.I. 82);

WHEREAS, the Scheduling Order set the deadline for a Joint Claim Construction Brief on March 8, 2021, in advance of a claim construction hearing on March 25, 2021 (D.I. 42 at ¶¶ 8, 9);

WHEREAS, to this date, the parties fully complied with the Scheduling Order (D.I. 42) as to 16 of the 17 patents in suit, save the most recently added ’056 patent;

WHEREAS, the deadline for producing core discovery had already passed at the time the ’056 patent was added to the suit;

WHEREAS, Plaintiffs have recently provided core discovery on the ’056 patent;

WHEREAS, the parties agree that there is no feasible schedule to complete the claim construction exchanges and briefing ahead of the March 25, 2021 due date and still address all 17 patents in the currently scheduled March 25, 2021 claim construction hearing. Thus, the parties respectfully request that the claim construction hearing be adjusted so that all patents can be addressed in a single claim construction hearing;

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the undersigned counsel for the parties, and subject to the approval of the Court, that the schedule is amended as set forth in Ex. A and that all other provisions of the Scheduling Order (D.I. 42) shall remain unchanged.

ASHBY & GEDDES

DLA PIPER LLP (US)

/s/ Andrew C. Mayo

/s/ Brian A. Biggs

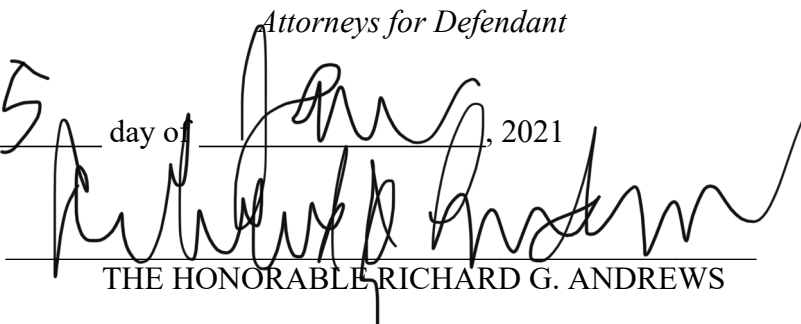
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Attorneys for Plaintiffs

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IT IS SO ORDERED this 5 day of August, 2021



THE HONORABLE RICHARD G. ANDREWS

EXHIBIT A

<u>Event</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Plaintiffs produce documentation fully describing the function and operation of the products accused of infringing the '056 patent, and shall make available source code establishing how those products operate	N/A	January 4, 2021
Defendant serves initial infringement contentions for the '056 patent	N/A	February 12, 2021
Plaintiffs serve initial invalidity contentions for each asserted claim of the '056 patent, as well as the alleged invalidating references.	N/A	March 5, 2021
Parties exchange list of claim terms and proposed constructions as to '056 patent.	N/A	March 19, 2020
Submit Supplemental Joint Claim Construction Chart as to all patents	N/A	April 9, 2020
Substantial completion of document production as to all patents	December 18, 2020	April 16, 2020
Plaintiffs' Opening Claim Construction Brief (5000 words)	January 11, 2021	April 30, 2021
Defendant's Answering Claim Construction Briefs (7500 words) and deadline for joint letter submission re: live testimony, if sought	February 1, 2021	May 21, 2021
Plaintiffs' Reply Claim Construction Brief (5000 words)	February 15, 2021	June 4, 2021
Defendant's Sur-Reply Claim Construction Brief (2500 words)	March 1, 2021	June 18, 2021
Joint Claim Construction Brief	March 8, 2021	June 25, 2021
Claim Construction Hearing	March 25, 2021	August 25 2021, at 9:00 am

<u>Event</u>	<u>Current Deadline</u>	<u>New Deadline</u>
Fact Discovery Cut Off	June 11, 2021	October 1, 2021
Pared-down Disclosure of Asserted Claims and Infringement Contentions are due for all patents. Each party shall serve on the other a list of no more than an average of 3 claims from each patent, and not more than a total of 42 claims, which claims may be asserted at trial. On this same date, each party shall produce a claim chart relating each accused product to the asserted claims each product allegedly infringes. Adding or substituting asserted claims is only permitted after this deadline upon a showing of good cause.	By the later of June 15, 2021 or 14 days after a claim construction decision	By the later of October 8, 2021 or 14 days after a claim construction decision
Pared-down disclosure of Asserted Prior Art and Invalidity Contentions due for all patents. Each party shall serve on the other a list of no more than an average of 6 prior art references per asserted patent, and not more than a total of 50 prior art references, which references may be asserted at trial. On this same date, each party shall produce its invalidity contentions for each asserted claim. Adding or substituting asserted prior art references is only permitted after this deadline upon a showing of good cause.	By the later of July 15, 2021 or 14 days after the Final Disclosure of Asserted Claims and Infringement Contentions	By the later of November 6, 2021 or 14 days after the Final Disclosure of Asserted Claims and Infringement Contentions
Disclosure of Expert Testimony – For the party who has the initial burden of proof on the subject matter, the initial Federal Rule 26(a)(2) disclosure of expert testimony is due	August 6, 2021	November 24, 2021

<u>Event</u>	<u>Current Deadline</u>	<u>New Deadline</u>
The supplemental disclosure of expert testimony to contradict or rebut evidence on the same matter identified by another party is due.	September 3, 2021	December 23, 2021
Reply expert reports from the party with the initial burden of proof are due	September 17, 2021	January 14, 2022
Close of Expert Discovery	October 18, 2021	February 12, 2022
Serve and file Case Dispositive and <i>Daubert</i> Motions Deadline (40 pages maximum) No case dispositive motion under Rule 56 may be filed more than ten days before the above date without leave of the Court. Absent an order of the Court upon a showing of good cause, for all <i>Daubert</i> and case dispositive motions, each side is limited to one forty-page opening brief, one forty-page answering brief and one twenty-page reply brief.	November 15, 2021	March 11, 2022
Answering briefs - Case Dispositive and <i>Daubert</i> Motions (40 pages maximum)	December 8, 2021	April 1, 2022
Reply briefs - Case Dispositive and <i>Daubert</i> Motions (20 pages maximum)	December 22, 2021	April 15, 2022
Pretrial Conference (all requirements regarding Joint Final Pretrial Order, Motions <i>In Limine</i> , Jury Instructions, <i>Voir Dire</i> and Special Verdict Forms to be followed in accordance with the instructions in D.I. 42)	April 1, 2022	August 26, 2022, at 9:00 am
Trial	April 11, 2022	September 19, 2022, at 9:30 am