

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SABRE CORP.,
SABRE GLBL INC.,
FARELOGIX INC., and
SANDLER CAPITAL PARTNERS V, L.P.,

Defendants.

Civil Action No. 1:19-cv-01548-LPS

~~PROPOSED~~ SCHEDULING ORDER

This 26th day of Sept., 2019, the Court having conducted an initial Rule 16 scheduling and planning conference pursuant to Local Rule 16.2(a) on September 12, 2019, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Rule 26(a)(1) Initial Disclosure and E-Discovery Default Standard. The parties have entered into Joint Stipulations Regarding Discovery, which are attached hereto as Exhibit A and incorporated by reference.
2. Joinder of Other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before September 17, 2019.
3. Discovery. Unless otherwise ordered by the Court, the limitations on discovery set forth in Local Rule 26.1 shall be strictly observed.

a. Discovery Cut Off. All discovery in this case shall be initiated so that it will be completed on or before January 22, 2019.

b. Document Production. Document production shall be complete by December 13, 2019.

c. Requests for Admission. Requests for admission are limited to 5 by the United States to each Defendant Family and to 5 by Defendants collectively to the United States (Sabre Corporation and Sabre GLOB Inc. representing one Defendant Family; and Farelogix Inc. and Sandler Capital Partners V, L.P. representing one Defendant Family). Requests for admission relating solely to the authentication or admissibility of documents, data, or other evidence (which are issues that the parties must attempt to resolve initially through negotiation) do not count against these limits. Unless otherwise agreed, the parties must respond in writing to requests for admission within 21 days after service.

d. Interrogatories.

i. Interrogatories are limited to 5 (including discrete subparts) by the United States to each Defendant Family and to 5 (including discrete subparts) by Defendants collectively to the United States.

ii. The Court encourages the parties to serve and respond to contention interrogatories early in the case. In the absence of agreement among the parties, contention interrogatories, if filed, shall first be addressed by the party with the burden of proof. The adequacy of all interrogatory answers shall be judged by the level of detail each party provides; i.e., the more detail a party provides, the more detail a party shall receive.

e. Depositions.

i. Limitation on Depositions. Each side is limited to a total of 40 depositions of fact witnesses, subject to the provisions set forth in the Joint Stipulations Regarding Discovery.

ii. Location of Depositions. The parties will use reasonable best efforts to schedule the location and time of all party depositions in a manner to reduce the burdens of travel to all parties. Acceptable locations may include Washington, D.C. and the parties' headquarters.

f. Disclosure of Expert Testimony.

i. Expert Reports. The substance and timing of expert disclosures are set forth in the Joint Stipulations Regarding Discovery. No other expert reports will be permitted without either the consent of all parties or leave of the Court. Along with the submissions of the expert reports, the parties shall advise of the dates and times of their experts' availability for deposition.

ii. Objections to Expert Testimony. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), as incorporated in Federal Rule of Evidence 702, it shall be made by motion no later than January 10, 2020, unless otherwise ordered by the Court.

g. Discovery Matters and Disputes Relating to Protective Orders.

i. Any discovery motion filed without first complying with the following procedures will be denied without prejudice to renew pursuant to these procedures.

ii. Should counsel find, after good faith efforts—including *verbal* communication among Delaware and Lead Counsel for all

parties to the dispute—that they are unable to resolve a discovery matter or a dispute relating to a protective order, the parties involved in the discovery matter or protective order dispute shall submit a joint letter in substantially the following form:

Dear Judge Stark:

The parties in the above-referenced matter write to request the scheduling of a discovery teleconference.

The following attorneys, including at least on Delaware Counsel and at least on Lead Counsel per party, participated in a verbal meet-and-confer (in person and/or by telephone) on the following date(s): _____

Delaware Counsel: _____

Lead Counsel: _____

The disputes requiring judicial attention are listed below:

[provide here a non-argumentative list of disputes requiring judicial attention]

- iii. On a date to be set by separate order, generally not less than forty-eight (48) hours prior to the conference, the party seeking relief shall file with the Court a letter, not to exceed three (3) pages, outlining the issues in dispute and its position on those issues. On a date to be set by separate order, but generally not less than twenty-four (24) hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed three (3) pages, outlining that party's reasons for its opposition.

- iv. Each party shall submit two (2) courtesy copies of its discovery letter and any attachments.
- v. Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it.

Alternatively, the Court may choose to resolve the dispute prior to the telephone conference and will, in that event, cancel the conference.

4. Motions to Amend.

- a. Any motion to amend (including a motion for leave to amend) a pleading shall **NOT** be accompanied by an opening brief but shall, instead, be accompanied by a letter, not to exceed three (3) pages, describing the basis for the requested relief, and shall attach the proposed amended pleading as well as a “blackline” comparison to the prior pleading.
- b. Within seven (7) days after the filing of a motion in compliance with this Order, any party opposing such a motion shall file a responsive letter, not to exceed five (5) pages.
- c. Within three (3) days thereafter, the moving party may file a reply letter, not to exceed two (2) pages, and, by this same date, the parties shall file a letter requesting a teleconference to address the motion to amend.

5. Motions to Strike.

- a. Any motion to strike any pleading or other document shall **NOT** be accompanied by an opening brief but shall, instead, be accompanied by a letter, not to exceed three (3) pages, describing the basis for the requested relief, and shall attach the document to be stricken.

b. Within seven (7) days after the filing of a motion in compliance with this Order, any party opposing such a motion shall file a responsive letter, not to exceed five (5) pages.

c. Within three (3) days thereafter, the moving party may file a reply letter, not to exceed two (2) pages, and, by this same date, the parties shall file a letter requesting a teleconference to address the motion to strike.

6. Applications to Court for Protective Order. Should counsel find it will be necessary to apply to the Court for a protective order specifying terms and conditions for the disclosure of confidential information, counsel should confer and attempt to reach an agreement on a proposed form of order and submit it to the Court within ten (10) days from the date of this Order. Should counsel be unable to reach an agreement on a proposed form of order, counsel must follow the provisions of Paragraph 3(g) above.

Any proposed protective order must include the following paragraph:

Other Proceedings. By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subjects to a motion to disclosure another party's information designated "confidential" [the parties should list any other level of designation, such as "highly confidential," which may be provided for in the protective order] pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

7. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one (1) copy of the papers. In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, a redacted version of any sealed document shall be filed electronically within seven (7) days of the filing of the sealed document.

8. Courtesy Copies. The parties shall provide to the Court two (2) courtesy copies of all briefs and one (1) courtesy copy of any other document filed in support of any briefs (i.e., appendices, exhibits, declarations, affidavits, etc.). This provision also applies to papers filed under seal.

9. ADR Process. This matter is referred to a magistrate judge to explore the possibility of alternative dispute resolution.

10. Interim Status Report. On December 9, 2019, counsel shall submit a joint letter to the Court with an interim report on the nature of the matters in issue and the progress of discovery to date. Thereafter, if the Court deems it necessary, it will schedule a status conference.

11. Case Dispositive Motions. Due to the compressed schedule before trial, the parties agree that no motions to dismiss and no motions for summary judgment will be filed in this action.

12. Applications by Motion. Except as otherwise specified herein, any application to the Court shall be by written motion filed with the Clerk. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

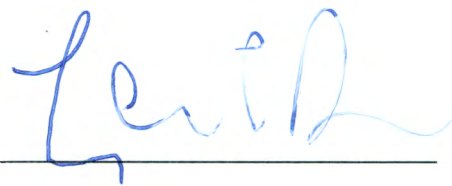
13. Pretrial Conference. On January 17, 2020, the Court will hold a pretrial conference in Court with counsel beginning at 8:30 a.m. Unless otherwise ordered by the Court, the parties should assume that filing the pretrial order satisfies the pretrial disclosure requirement of Federal Rule of Civil Procedure 26(a)(3). The parties shall file with the Court the joint proposed final pretrial order with the information required by the form of Final Pretrial Order which accompanies this Scheduling Order on or before January 10, 2020. Unless otherwise ordered by the Court, the parties shall comply with the timeframes set forth in Local Rule

16.3(d)(1)–(3) for the preparation of the joint proposed final pretrial order. The Court will advise the parties at or before the above-scheduled pretrial conference whether an additional pretrial conference will be necessary.

14. Motions in Limine. Motions *in limine* shall not be separately filed. All *in limine* requests and responses thereto shall be set forth in the proposed pretrial order. Each party shall be limited to three (3) *in limine* requests, unless otherwise permitted by the Court. The *in limine* request and any response shall contain the authorities relied upon; each *in limine* request may be supported by a maximum of three (3) pages of argument and may be opposed by a maximum of three (3) pages of argument, and the party making the *in limine* request may add a maximum of one (1) additional page in reply in support of its request. If more than one party is supporting or opposing an *in limine* request, such support or opposition shall be combined in a single three (3) page submission (and, if the moving party, a single one (1) page reply), unless otherwise ordered by the Court. No separate briefing shall be submitted on *in limine* requests, unless otherwise permitted by the Court.

15. Trial. ~~This matter is scheduled for a 70-hour bench trial beginning at 9:30 a.m. on January 27, 2020, with the subsequent trial day hours to be determined based on the Court's availability. In the interim status report to be filed on December 9, 2019, counsel shall confirm whether 70 hours is a sufficient amount of time for trial. The trial will be timed, as counsel will be allocated a total number of hours in which to present their respective cases.~~

The Court recognizes that the parties request 70 hours as discussed. The Court is holding the week of January 27, 2020 for trial. Subject to further order, both sides will have at least 20 hours for trial. In the interim status report to be filed on December 9, 2019, counsel shall address whether 20 hours for both sides is a sufficient amount of time for trial.



UNITED STATES DISTRICT JUDGE