

February 22, 2010

**Fredrikson**  
**& BYRON, P.A.**

**ELECTRONICALLY FILED**

The Honorable John R. Tunheim  
United States District Court  
U.S. Courthouse, Suite 13E  
300 South Fourth St.  
Minneapolis, MN 55415

Re: *Insignia Systems, Inc., et al. v. News America Marketing In-Store, Inc. et al./News America Marketing In-Store, Inc. v. Insignia Systems, Inc. et al.*,  
Civil No. 04 4213 JRT/AJB

Dear Judge Tunheim:

I want to respond, just briefly, to Insignia's counsel's letter sent to Chambers earlier today. Mr. Wood appears skeptical about News America's counsels' trial conflicts. Although we think these matters can best be discussed at a scheduling conference, we feel compelled to provide the Court with the details of these conflicts given Mr. Wood's letter.

Richard Stone of Hogan & Hartson and I will be lead trial counsel in this matter. I have a trial in Hennepin County District Court before Judge Kaman, with a date certain beginning April 5, 2010. The case number is 27 CV 09-4174. I also have a jury trial scheduled to begin before Judge Blaeser in a trial block beginning April 19 in Case No. 27 cv-09-8870, although we just learned that matter may be re-set for a future block. Mr. Stone is set for trial beginning May 3, 2010 in the Superior Court of California in Los Angeles, Case. No. BC 375604. I have attached a copy of the Trial Notice in that matter. The judge in that case stated on the record this was a firm trial date.

Thus, apart from the *Daubert* motions, which we believe whole heartedly merit a briefing schedule and separate evidentiary hearing, we have actual conflicts in the very near term that we hope can be taken into consideration in setting a trial date.

If the Court would like any additional information about these matters, we would be happy to provide it.

Thank you for your consideration.

Sincerely,



Todd Wind  
**Direct Dial:** 612.492.7046  
**Email:** twind@fredlaw.com

TW:dlo:/4698766 – 49209.1000  
cc: Counsel of Record (via CM/ECF notice)  
Enclosure

Attorneys & Advisors  
main 612.492.7000  
fax 612.492.7077  
www.fredlaw.com

Fredrikson & Byron, P.A.  
200 South Sixth Street, Suite 4000  
Minneapolis, Minnesota  
55402-1425

**COPY**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Hogan & Hartson, LLP  
Richard L. Stone, Bar No. 110022  
rlstone@hhlaw.com  
Julie Ann Shepard, Bar No. 175538  
jashepard@hhlaw.com  
Asheley G. Dean, Bar No. 245504  
agdean@hhlaw.com  
1999 Avenue of the Stars, Suite 1400  
Los Angeles, California 90067  
Telephone: (310) 785-4600  
Facsimile: (310) 785-4601

Attorneys for Defendant  
MYSPACE, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

SECURE CALL MANAGEMENT, INC.,  
Plaintiff,  
v.  
MYSPACE, INC.; and DOES 1 through  
10, Inclusive,  
Defendant.

Case No. BC 375604  
[Complaint Filed: August 9, 2007]  
Judge: Hon. Charles F. Palmer  
Dept.: 33

**NOTICE OF RULING AND NOTICE OF  
CONTINUANCE OF TRIAL DATE**

Trial Date: May 3, 2010

AND RELATED CROSS-ACTION

PLEASE TAKE NOTICE that the hearing on Defendant's Ex Parte Application For An Order: (1) Compelling Plaintiff To Produce Witnesses For Deposition; (2) Precluding Plaintiff From Offering Expert Testimony At Trial Or, In The Alternative, Compelling Plaintiff To Comply With C.C.P. 2034.260 And Produce Experts For Deposition, And (3) Allowing The Completion Of Outstanding Discovery; Or, In The Alternative, (4) Setting An Expedited Briefing Schedule ("Motion") came on regularly for hearing on December 4, 2009. Julie Shepard appeared on behalf of MySpace, Inc. and Michael Stoller appeared on behalf of Secure Call Management ("SCM"). The Honorable Charles Palmer granted MySpace's Motion, in part,

**CONFORMED COPY**  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

DEC 09 2009

John A. Clarke, Executive Officer/Clerk  
By *[Signature]* Deputy  
GLORIETA ROBINSON

1 providing as follows:

2 Discovery is re-opened for the limited purpose of taking the following discovery on the  
3 following conditions:

- 4 1. MySpace is entitled to take the continuation of the deposition of Robert Klayman.  
5 MySpace shall have three hours to complete Mr. Klayman's deposition.
- 6 2. MySpace is entitled to take the deposition of Kenneth Barton if SCM will be  
7 calling Mr. Barton at trial. SCM must represent in writing to MySpace that SCM  
8 will not be calling Mr. Barton at trial in order to avoid his deposition. MySpace  
9 shall have four hours to complete Mr. Barton's deposition.
- 10 3. MySpace is entitled to take the deposition of Igor Sapo. MySpace shall have four  
11 hours to complete Mr. Sapo's deposition.
- 12 4. SCM is entitled to complete the deposition of Josh Berman. SCM shall have four  
13 hours to complete Mr. Berman's deposition.
- 14 5. SCM is entitled to take the person most knowledgeable deposition of MySpace  
15 pursuant to the court's earlier rulings on the scope of this deposition. SCM shall  
16 have one day to complete this deposition.
- 17 6. SCM is entitled to complete the deposition of Jae Sung if MySpace will be calling  
18 him at trial. MySpace must represent in writing to SCM that MySpace will not be  
19 calling Mr. Sung at trial in order to avoid his deposition. SCM shall have four  
20 hours to complete this deposition.
- 21 7. SCM is entitled to take the deposition of Jason Feffer if MySpace will be calling  
22 him at trial. MySpace must represent in writing to SCM that MySpace will not be  
23 calling Mr. Feffer at trial in order to avoid his deposition. SCM shall have four  
24 hours to complete Mr. Feffer's deposition.
- 25 8. MySpace's request to take Roman Matatov's deposition was denied.
- 26 9. SCM's request to take the deposition of Telecommunications on Demand was  
27 denied.
- 28 10. SCM is required to cure the deficiencies in its expert witness designations within

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

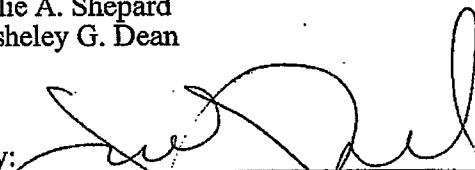
one week. MySpace may supplement its expert designation. MySpace is not required to do so until SCM provides corrected designations. Each party shall be permitted to take expert witness depositions.

11. All discovery shall be completed by 30 days prior to the new trial date of May 3, 2010.

PLEASE TAKE FURTHER NOTICE that the Court continued the trial date from December 21, 2009 to May 3, 2010 at 9:30 a.m. in Department 33. The court also set the final status conference for April 23, 2010.

Dated: December 9, 2009

Hogan & Hartson, LLP  
Richard L. Stone  
Julie A. Shepard  
Asheley G. Dean

By:   
Julie A. Shepard  
Attorneys for Defendant  
MYSPACE, INC.