

AMERICAN ARBITRATION ASSOCIATION

Case # 54 180 Y 01325 06

Blueberry Software, Inc.,

And

Parametric Technology Corporation

REPORT OF PRELIMINARY HEARING AND SCHEDULING ORDER

Pursuant to the commercial Arbitration Rules of the American Arbitration Association (AAA), a preliminary hearing was held by telephone on February 6, 2007, before Arbitrator Kathryn J. Humphrey. Participating in the hearing were Mary Marguerite Tarantino for Claimant, Michael Palizzi for Respondent, and Hannah Cook for the American Arbitration Association.

By Agreement of the parties or Order of the Arbitrator, the following is now in effect:

1. The parties have not conducted any discovery to date on the issues.
2. There is no counterclaim.
3. Respondent's main defense is that of a contractual period of limitations and an alleged limitation of liability resulting from that contract. Respondent anticipates filing a dispositive motion concerning the period of limitations and limitation of liability, and will do so on or before **February 23, 2007**. Claimant will file a response brief on or before **March 8, 2007**. Any reply by Respondent will be filed on or before **March 22, 2007**. The papers will be filed with the American Arbitration Association, which will transmit the papers to the Arbitrator. The parties should not send papers directly to the Arbitrator. The parties are directed, however, to serve one another with copies of all papers simultaneous with the filing with AAA.
4. The Arbitrator will hold a telephonic hearing on the motion, on **April 4, 2007, at 1:00 p.m. Eastern, 10:00 a.m. Pacific time**. The parties may present brief remarks in favor of their respective positions on the motion, and the Arbitrator will use the hearing as an opportunity to ask questions of the party representatives.

5. Claimant asserts that, even if granted, the motion will not end all claims, because there is an ongoing dispute not subject to the period of limitations contained in the contract. Respondent asserts that the motion, if granted, will be fully dispositive of all claims. If Claimant is going to amend its claims, it should do so on or before **February 13, 2007**. Whether or not Claimant amends its claims, Respondent may file amended defenses on or before **February 19, 2007**.
6. Claimant has requested access to the files of Plante & Moran relating to the audit by Mark Robinson that culminated in a Plante & Moran report dated March 21, 2005, issued to both parties. Claimant has requested all documents used by Plante & Moran to conduct the audit and to come to the conclusions of the audit report. Claimant asserts that the papers in the files may be relevant to the motion on limitations that will be filed by Respondent, an assertion that Respondent disputes, and may be relevant to issues in dispute that go forward and are not affected by any alleged limitations period. Respondent contends that the arbitration demand does not include a claim for payments made within one year of the arbitration demand.

After discussion, the parties agreed to talk with Mr. Robinson to learn the volume of the Plante & Moran files, and to determine whether they can reach an agreement on a means for both parties to have access to those files. The Arbitrator requested that, if the parties cannot agree on access, the issue be raised with the Arbitrator in time to allow a decision and avoid disruption of the schedule set out for briefing of the dispositive motion (set out in Paragraph 3 above).

7. The parties have agreed that, until the dispositive motion is decided, it is premature to address other typical preliminary matters (schedule for witness lists, document exchanges, discovery, arbitration hearing, and form of award). Thus those issues will be taken up, if necessary, after the Arbitrator's decision on the motion being filed by Respondent.

Dated: Feb. 7, 2007

Kathleen J. Humphrey
Arbitrator's Signature

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