IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

WebXchange Inc.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 08-131 JJF
	:	
Allstate Corporation, et al.,	:	
	:	
Defendants.	:	

ORDER SETTING RULE 16(b) CONFERENCE

IT IS HEREBY ORDERED that:

1. A Scheduling Conference pursuant to Fed. R. Civ. P. 16(b) will be held on **Friday, May 9, 2008, at 2:00 p.m.**, in Courtroom No. 4B on the 4th Floor, Boggs Federal Building, Wilmington, Delaware. If, as of the date of this Order, the Defendants have not yet entered and appearance and/or answered or otherwise pled, it shall be the responsibility of counsel for the Plaintiff to notify the Defendants of this Order.

2. Parties shall use the attached form of order for the purpose of preparing for the conference. A firm Trial date may be set, therefore parties should be prepared to provide the Court with the agreed upon dates and discovery limitations.

3. The parties shall direct any requests or questions regarding the scheduling and management of the above matter to Case Manager Debbie Krett at (302) 573-6168.

March 18, 2008
DATE

UNITED STATES DISTRICT JUDGE

(Patent Revised 2/08)

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties [have exchanged] [will exchange] by (date) the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before (date).

3. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to Magistrate Judge _____ for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

4. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by (date).

(b) Maximum of _____ interrogatories, including contention interrogatories, for each side.

(c) Maximum of _____ requests for admission by

each side.

(d) Maximum of _____ depositions by plaintiff(s) and _____ by defendant(s), excluding expert depositions. Depositions shall not commence until the discovery required by Paragraph 3(a, b and c) is completed.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the party with the burden of proof on the issue the expert is offered thirty (30) days after the issuance of the Court's Markman decision.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

5. **Non-Case Dispositive Motions.**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at: http://www.ded.uscourts.gov/JJFmain.htm

(b) At the motion hearing, each side will be

allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by-email at: jjf_civil@ded.uscourts.gov

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before _____.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before _____, 20___. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The parties shall follow the Court's procedures for summary judgment motions which is available on the Court's website at: http://www.ded.uscourts.gov/JJFmain.htm

8. **Markman.** A Markman Hearing, if necessary, will be held on _____. The parties shall identify and exchange their contentions at least forty-five (45) days before the Markman Hearing. Briefing on the claim construction issues shall be completed at least twenty (20) days prior to the hearing. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

9. **Applications by Motion.**

(a) Any applications to the Court shall be by

written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on procedures for filing non-dispositive motions in patent cases. Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

10. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty

(60) to ninety (90) days of the Pretrial Conference.

_____ _____

DATE UNITED STATES DISTRICT JUDGE