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| IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  |
|  | **PATENT CASE SCHEDULING ORDER** |
|  Plaintiff, |
| v. |  |
|  | Honorable District Judge  |
|  Defendant. |  |

 Pursuant to Fed.R. Civ P. 16(b), the Court received the Attorney Planning Report (doc # \_\_) filed by counsel. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

**ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY**

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| 1. **1.**
 |  | **PRELIMINARY MATTERS/DISCLOSURES** |  | **DATE** |
|  | a.b.c.d. | Plaintiff’s Accused Instrumentalities disclosure due[LPR 2.1]Plaintiff’s Rule 26(a)(1) initial disclosure due[LPR 2.2]Defendant’s Rule 26(a)(1) initial disclosure due[LPR 2.2]Rule 26(f)(1) Conference held and discovery begins [LPR 1.2, 1.3] |  | [7 days after 1st answer—Day 7/ Week 1][Day 21/ Week 3][Day 28/ Week 4][Day 35/ Week 5] |
|  | e. | Attorney Planning Meeting Report and Proposed Scheduling Order submitted [LPR 1.2] |  | [Day 42/ Week 6] |
|  | f.g.h.i.j. | Plaintiff serves Initial Infringement Contentions [LPR 2.3]Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions *If no infringement claims,* Plaintiff serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 2.6]Final Infringement Contentions [LPR 3.1]Final Unenforceability and Invalidity Contentions [LPR 3.1]Final Non- Infringement, [LPR 3.2] |  | [Day 63/ Week 9][Day 77/ Week 11][Day 210/ Week 30][Day224/Week 32][Day 238/Week 34] |
| 1. **.**
 |  | **DISCOVERY LIMITATIONS** |  | **NUMBER** |
|  | a. | Maximum number of depositions[[1]](#footnote-1) by Plaintiff(s) |  |  |
|  | b. | Maximum number of depositions[[2]](#footnote-2) by Defendant(s) |  |  |
|  | c. | Maximum number of hours for each deposition(unless extended by agreement of parties) |  |  |
|  | d. | Maximum interrogatories[[3]](#footnote-3) by any party to any party |  |  |
|  | e. | Maximum requests for admissions by any party to any party |  |  |
|  | f. | Maximum requests for production by any party to any party |  |  |
|  | The Parties shall handle discovery of electronically stored information as follows: |
|  | g. | The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: *Include provisions of agreement to obtain the benefit of Fed. R. Evid. 502(d).***DATE** |
|  | h.i.j.k. | Deadline to serve written discovery before claim construction [R. 34]:Close of fact discovery before claim construction [LPR 1.3(a)]:Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(c)]:Deadline to file motion for additional discovery [LPR 1.3(b)]: | [Day 250][Day 280/ Week 40][PCC Day 7/ Week 1][PCC Day 14/ Week 2] |
| **3.** **4.** | a.b. | **AMENDMENT OF PLEADINGS/ADDING PARTIES[[4]](#footnote-4)**Last day to file motion to amend pleadingsLast day to file motion to add parties**CLAIM CONSTRUCTION PROCESS** | **DATE**[Day 112/ Week 16][Day 112/ Week 16]**DATE** |
|  | a. | Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)] | [Day 252/Week 36] |
|  | b.c.d.e.f.g.h. | Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]Tutorial for Court [LPR 4.4]Parties exchange exhibits [LPR 4.3]Claim Construction Hearing[[5]](#footnote-5) [LPR 4.3] | [Day 259/ Week 37][Day 287/ Week 41] [Day 315/Week 45][Day 322/ Week 46]2:30 p.m. [Day 329/ Week 47][Day 336/ Week 48]TBD |
| **5.** |  | **EXPERT DISCOVERY** | **DATE** |  |
|  | a. | Parties bearing burden of proof [LPR 5.1(b)] | [PCC Day 28/ Week 4] |  |
|  | b. | Counter disclosures: |  |  |
|  | c.d. | Counter reports [LPR 5.1(c)]Close of expert discovery [LPR 5.2] | [PCC Day 56/ Week 8][PCC Day 91/ Week 13] |  |
| **6.****7.** | a.b.c.d.e. | **DISPOSITIVE MOTIONS**Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2]Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2]Deadline for filing dispositive or potentially dispositive motions [LPR 6.1]Deadline for filing partial or complete motions to exclude expert testimony**SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/ OTHER PROCEEDINGS** | **DATE**[Day 287/ Week 41][Day 315/ Week 45][Day 329/ Week 47][PCC Day 119/ Week 17]00/00/00**DATE** |
|  | a. | Likely to request referral to a Magistrate Judge for settlement conference:  |  | Yes/No |
|  | b.c. | Likely to request referral to court-annexed arbitration:Likely to request referral to court-annexed mediation: | *Yes/No* | Yes/NoYes/No |
|  | d.e.f. | Last day to seek stay pending reexamination [LPR 3.5]The parties will complete private mediation/arbitration by:Evaluate case for Settlement/ADR on |  | [Day 238/Week 34]00/00/0000/00/00 |
|  | g. | Settlement probability: |  |  |

***Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.***

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| **8.** |  | **OTHER MATTERS** |  |  |
|  |  | All Motions in Limine should be filed well in advance of the Final Pretrial Conference.  |

Signed April 3, 2018.

BY THE COURT:

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U.S. Magistrate Judge

1. Excluding depositions of experts. [↑](#footnote-ref-1)
2. Excluding depositions of experts. [↑](#footnote-ref-2)
3. An interrogatory or multiple interrogatories seeking the basis of a party’s affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LRP 1.7. [↑](#footnote-ref-3)
4. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a). [↑](#footnote-ref-4)
5. Parties should contact the Court to set the date for the Claim Construction Hearing [↑](#footnote-ref-5)