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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 pleadings  Last 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/No  Yes/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]  00/00/00  00/00/00 | |
|  | 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:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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)