

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

E-NUMERATE SOLUTIONS, INC. and
E-NUMERATE, LLC,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

C.A. No. 19-859-RTH

**PLAINTIFFS' UNOPPOSED MOTION TO AMEND THE
SCHEDULING ORDER**

Plaintiffs e-Numerate Solutions, Inc., and e-Numerate, LLC (collectively “e-Numerate” or “Plaintiffs”) hereby move this Court to amend the current Scheduling Order (D.I. 77) in this matter in light of trial schedule deadlines affecting Plaintiffs’ counsels’ ability to adequately review and respond to the Government’s responsive claim construction briefs. The parties met and conferred, and the Government does not oppose this motion. In support thereof, Plaintiffs aver as follows.

WHEREAS Plaintiffs’ trial counsel is working on several matters in other federal courts with impending trial deadlines including deadlines for fact discovery, expert discovery, and summary judgment filings;

WHEREAS an associate working on this matter has recently left Plaintiffs’ trial counsel’s firm;

WHEREAS Plaintiffs will suffer prejudice based on the Plaintiffs’ trial counsel’s inability to effectively work on the briefs prior to the current deadline in the Scheduling Order;

WHEREAS Plaintiffs have represented to Defendant that they do not intend to take the deposition of Defendant's expert, Dr. David Martin, with respect to his declarations of December 3, 2021 and February 11, 2022 during the claim construction process and will not seek additional extensions to pursue such a deposition;

WHEREAS the proposed schedule will provide Defendant sufficient time to prepare its sur-replies in light of its own previous and con-current commitments in early June;

WHEREFORE, Plaintiffs respectfully move this Court to amend the Scheduling Order as follows, which the Government does not oppose:

Event	Prior Deadline	New Deadline
Plaintiffs file their reply claim construction briefs	13 May 2022	27 May 2022
The government files its surreply claim construction briefs	27 May 2022	24 June 2022
Plaintiffs file their surreply claim construction brief regarding indefiniteness terms	10 June 2022	8 July 2022
The parties submit the joint claim construction statement and propose dates for the Markman hearing	17 June 2022	15 July 2022
If desired, parties may submit joint technical tutorial to the Court	24 June 2022	22 July 2022
Markman hearing	To be scheduled	To be scheduled
Deadline for the government to produce technical documents for additional agencies named in the second amended complaint	8 July 2022	29 July 2022

Dated: May 10, 2022

Respectfully submitted,

/s/ Sean T. O'Kelly

Sean T. O'Kelly

Gerard M. O'Rourke

O'KELLY & O'ROURKE, LLC

824 N. Market Street, Suite 1001A

Wilmington, DE 19801

302-778-4000

sokelly@okorlaw.com

gorourke@okorlaw.com

Attorneys for Plaintiffs