

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. 85) in this matter in light of recently moved 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’s firm had multiple employees contract Covid during the weeks of May 9 and May 16, 2022;

WHEREAS these employees were unable to work during large portions of these two weeks;

WHEREAS Plaintiffs trial counsel was granted an extension for summary judgment filings until May 24, 2022, in a case presently pending in the Eastern District of Pennsylvania and have met said deadline;

WHEREAS the illnesses in Plaintiffs' trial counsel's office delayed work on responding to the Government's claim construction briefs;

WHEREAS the present deadline for response is May 27, 2022;

WHEREAS that date is the Friday before the Memorial Day weekend; and

WHEREAS Plaintiffs' client representatives wish to review all briefs before they are filed;

WHEREAS Plaintiffs will suffer prejudice based on in light of the compressed deadlines in this matter including to coordinate client review in light of the Memorial Day holiday;

WHEREAS Plaintiffs seek until Wednesday, June 1, 2022, to file their responsive claim construction briefs and the Government does not oppose this relief;

WHEREAS Defendant has worked cooperatively with Plaintiffs to schedule around personal and professional conflicts and does not oppose this motion, but intends to oppose further extensions absent good cause.

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 | 27 May 2022 | 1 June 2022 |
| The government files its surreply claim construction briefs | 24 June 2022 | 1 July 2022 |
| Plaintiffs file their surreply claim construction brief regarding indefiniteness terms | 8 July 2022 | 15 July 2022 |

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|--|-----------------|-----------------|
| The parties submit the joint claim construction statement and propose dates for the Markman hearing | 15 July 2022 | 22 July 2022 |
| If desired, parties may submit joint technical tutorial to the Court | 22 July 2022 | 10 August 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 | 29 July 2022 | 17 August 2022 |

Dated: May 27, 2022

Respectfully submitted,

/s/ Sean T. O'Kelly

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