

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ELM 3DS INNOVATIONS, LLC, Plaintiff, v. SAMSUNG ELECTRONICS CO, LTD., et al., Defendants.

C.A. No. 14-cv-1430-VAC

JURY TRIAL DEMANDED

STIPULATION TO AMEND SCHEDULING ORDER

WHEREAS, the Court entered Amended Scheduling Orders on May 9, 2018 (D.I. 176), January 15, 2020 (Docket Text Order), March 26, 2020 (Docket Text Order), July 16, 2020 (D.I. 316), October 7, 2020 (Docket Text Order), January 7, 2021 (Docket Text Order), July 22, 2021 (Docket Text Order), and January 4, 2022 (Docket Text Order);

WHEREAS, the parties have not yet completed fact discovery in this case;

NOW THEREFORE, the parties hereby stipulate and agree, subject to the approval of the Court, to amend the scheduling order as follows. The parties disagree over the dates for dispositive motions, and have included brief explanations for those disagreements below:

Event	Current Deadline	Extended Deadline
Samsung to produce downstream sales data for the 100 representative products with die thicknesses above 50 microns, in a form that will be immediately useable by Elm.		4/1/2022
Samsung to substantially complete discovery on the 100 representative products with die thicknesses above 50 microns, including document production, production of samples, and interrogatory supplementation.	2/18/2022	4/15/2022
Elm's deadline to serve interrogatories and Rule 30(b)(6) deposition notices relating to Samsung's representative products	3/14/2022	4/29/2022
Elm's deadline to serve fact-deposition notices on Samsung	3/14/2022	4/29/2022
Fact discovery closes	4/14/2022	6/3/2022
Elm elects no more than 36 total claims and provide final infringement contentions	5/3/2022	6/17/2022
Defendants' responses to contention interrogatories related to infringement	5/20/2022	7/8/2022
Defendants elect no more than 36 prior art references and provide final invalidity contentions	6/3/2022	7/15/2022
Elm's responses to contention interrogatories related to invalidity	6/17/2022	7/29/2022
Opening expert reports	7/8/2022	8/19/2022
Responsive expert reports	8/12/2022	9/23/2022
Expert discovery closes	9/2/2022	10/6/2022

Event	Current Deadline	Extended Deadline
Case dispositive and Daubert motions	9/16/2022	Elm Proposal: 10/20/2022 Samsung Proposal: 10/27/2022
Responses to case dispositive and Daubert motions	10/21/2022	Elm Proposal: 11/23/2022 Samsung Proposal: 11/30/2022
Replies to case dispositive and Daubert motions	11/2/2022	Elm Proposal: 12/7/2022 Samsung Proposal: 12/14/2022
Hearing on pending dispositive and Daubert motions	TBD	TBD
Rule 16 Conference	TBD	TBD
Deadline for Elm to provide a draft pretrial order to all other parties	No Change	No Change
Deadline for all other parties to provide Elm and each other party with their responses to Elm's draft order	No Change	No Change
Pretrial conference	TBD	TBD
Jury trial	TBD	TBD
Deadline for the parties to jointly submit a form of order to enter judgment on the verdict and to submit a joint status report (should they wish to file one), indicating among other things how the case should proceed and listing any post-trial motions each party intends to file	No Change	No Change

Elm's Statement Regarding Schedule for Dispositive Motions: Under the current case schedule, there are two weeks between the close of expert discovery (scheduled for 9/2/2022) and the filing of dispositive motions (scheduled for 9/16/2022). Elm proposes that the updated schedule similarly include two weeks between those events. Samsung proposes extending that

timeframe by one week. Elm opposes Samsung's approach for two reasons. First, Samsung has never explained to Elm why Samsung previously agreed to a two-week space between those events, but now believes an additional week is necessary.¹ Second, Samsung's approach creates the real possibility that dispositive motion briefing will not be completed this year. Under Samsung's approach, dispositive motion briefing is scheduled to end on December 14, 2022. This is just over a week before the Christmas holidays. If any intervening deadlines are even just slightly delayed, then dispositive briefing will not be completed this year. Given past experiences, such delays are highly likely. Elm filed this lawsuit in 2014. While another week may seem like a small matter, Elm opposes a schedule that will likely delay dispositive motion briefing into 2023.

Samsung's Statement Regarding Schedule for Dispositive Motion: The parties primarily dispute how soon after the close of expert discovery to set the date for case dispositive and Daubert motions. While Samsung believes four weeks is appropriate—which is the same timing often seen in Delaware scheduling orders—Samsung proposed three weeks in the spirit of compromise and with the hope of reaching an agreement, without burdening the Court. At least three weeks is necessary here; the motions Samsung intends to file include technologically-complex topics and will rely on expert testimony. Elm, in contrast, seeks to significantly compress the timeline down to two weeks from the close of expert discovery, while at the same time seeking nearly five weeks for responsive briefing, followed by two weeks for reply briefing. This unbalanced proposal is unworkable and would severely prejudice Samsung, as it would not provide sufficient time to prepare opening briefs, including reviewing and incorporating the testimony from expert depositions. Samsung respectfully requests that the Court adopt Samsung's proposal accordingly.

¹ The parties exchanged their statements simultaneously. To the extent that Samsung's statement explains why it previously agreed to a two-week gap but now insists on three, that explanation was never previously provided to Elm.

Dated: March 23, 2022.

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Respectfully submitted,

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IT IS SO ORDERED

Date: 3.23.22


