

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.: 1:22-cv-22706-SCOLA/GOODMAN

BELL NORTHERN RESEARCH, LLC,

Plaintiff,

v.

HMD AMERICA, INC., HMD GLOBAL OY,  
SHENZHEN CHINO-E COMMUNICATION CO.  
LTD., WINGTECH TECHNOLOGY CO. LTD.,  
WINGTECH INTERNATIONAL, INC., BEST BUY  
CO., INC., BEST BUY STORES L.P., TARGET  
CORP., WALMART INC.,

Defendants.

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**DEFENDANTS HMD AMERICA, INC., HMD GLOBAL OY,  
BEST BUY CO., INC., BEST BUY STORES L.P., TARGET CORP.,  
AND WALMART INC.'S MOTION TO MODIFY SCHEDULING ORDER AND  
SHORTENED RESPONSE SCHEDULE**

Defendants HMD America, Inc., HMD Global Oy, Best Buy Stores L.P., Target Corp., and Walmart Inc. (collectively, "Defendants") move for entry of an Order modifying certain claim construction and other pretrial deadlines established in this Court's March 28, 2023, Scheduling Order, Order of Referral to Mediation, Patent Rules, and Protective Order (ECF No. 174; the "Scheduling Order"). While Plaintiff Bell Northern Research, LLC ("Plaintiff") opposes the motion to modify, it agrees to a shortened response period to file its response to the instant motion by Tuesday June 20, 2023.

In support of this Motion, the Parties state as follows:

1. The Parties had a dispute concerning the sufficiency of Plaintiff's infringement contentions and Defendants filed a Notice of Hearing regarding that dispute with Magistrate Judge Goodman on March 1, 2023. ECF No. 142.

2. Defendants requested, and the Court granted, a stay of certain patent contention and claim construction deadlines while the dispute was pending. ECF Nos. 140, 148.

3. As part of the Parties' efforts to resolve the dispute regarding Plaintiff's infringement contention, Plaintiff supplemented its infringement contentions on April 14, 2023, and Defendants reviewed the supplemented contentions to determine if any disputes remained.

4. On April 25, 2023, the Parties filed a Supplemental Joint Status Report with Judge Goodman notifying the Court that (1) the Parties reached agreement regarding Plaintiff's patent infringement contentions and (2) the dispute would be fully resolved upon resolution of the Parties' Joint Motion to the Court to Amend the Scheduling Order. ECF No. 171. As part of the Parties' agreement, Plaintiff agreed to further supplement its infringement contentions for one asserted patent, U.S. Patent No. 6,696,941 ("the '941 Patent").

5. The Court granted that Motion to Amend and issued the Scheduling Order setting, among other dates, June 9, 2023, as the deadline for Defendants to serve responsive patent contentions and accompanying document production under Rules 3-3 and 3-4 of the Court's Patent Rules. ECF No. 174.

6. Plaintiff supplemented its infringement contentions for the '941 Patent on May 24, 2023, about two weeks before Defendants' June 9, 2023, deadline for responsive patent contentions. Given that timing, the Parties agreed to extend Defendants' deadline for responsive contentions for the '941 Patent by three weeks to June 30, 2023, while maintaining June 9, 2023, as the deadline for Defendants' responsive contentions for the other 12 asserted patents.

7. Defendants filed and the Court granted an unopposed Motion for Extension of Time to Serve Responsive Patent Contentions for the '941 Patent. ECF Nos. 179, 180. The deadline for Defendants' responsive patent contentions for the '941 Patent is set to June 30, 2023.

8. Additionally, Defendants Wingtech International Inc. and Wingtech Technology Co. (“Wingtech”) filed and the Court granted an unopposed Motion for Extension of Time to serve Non-Infringement, Unenforceability, and Invalidity Contentions, which likewise sought a three week extension. ECF Nos. 181, 182. The deadline for all of Wingtech’s responsive patent contentions for all 13 asserted patents is set to the same date of June 30, 2023.

9. On June 9, 2023, Defendants served on Plaintiff their responsive patent contentions for all asserted patents except the ’941 Patent.

10. Patent Rule 4-1 requires the parties to identify “claim terms that the party contends should be construed by the Court” and to “jointly identify the 10 terms likely to be most significant to resolving the parties’ dispute.” ECF No. 125 at 15. The deadline for such identification is presently June 23, 2023.<sup>1</sup>

11. Patent Rule 4-2 requires the parties to exchange proposed constructions and identify intrinsic and extrinsic evidentiary for their constructions. ECF No. 125 at 15-16. The deadline for such exchange is presently July 7, 2023.

12. Good cause exists to modify certain claim construction and other pretrial dates. The June 30, 2023, deadline for certain responsive contentions now falls *after* the June 23, 2023, deadline in the Scheduling Order for the exchange of proposed terms for construction, and shortly before the July 7, 2023, deadline to exchange preliminary constructions and extrinsic evidence. Defendants cannot fully assess the claim construction issues and likely disputes, and prioritize terms for construction across all thirteen asserted patents, until all contentions are finalized and exchanged. The Parties have cooperated in good faith to resolve their dispute about Plaintiff’s

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<sup>1</sup> In view of this imminent due date in the current scheduling order, Defendants request a shortened response due date for the instant motion of June 20, 2023, to which Plaintiff agrees.

infringement contentions, including through Plaintiff's service of amended contentions and patent claim charts and Defendants' service and forthcoming additional service of responsive patent contentions and claim charts, but need a modification of the current schedule to facilitate an orderly and informed claim construction exchange.

13. To maintain the timing and sequence in the Court's Scheduling Order, ECF Nos. 174, 180, Defendants request that certain claim construction deadlines and other pretrial deadlines in the Scheduling Order be extended by three weeks, corresponding to the additional three weeks set for the responsive patent contentions described above, as shown in the following proposed schedule:

<b>Current Date</b>	<b>Proposed Date</b>	<b>Description</b>
Passed		Deadline for a party claiming patent infringement to serve Disclosure of Asserted Claims and Infringement Contentions and make accompanying document production.
Passed		Deadline to submit joint notice indicating whether the parties consent to jurisdiction before the designated magistrate judge for purposes of dispositive motions or final disposition or both.
Passed		Deadline for Defendants HMD America, Inc., HMD Global Oy, Best Buy Stores L.P., Target Corp., and Walmart Inc ("Defendants") to serve Non-Infringement, Unenforceability, and Invalidity Contentions for all asserted patents except U.S. Patent No. 6,696,941, and to make accompanying document production.

<b>Current Date</b>	<b>Proposed Date</b>	<b>Description</b>
June 30, 2023 (extended)		Deadline for Defendants to serve Non-Infringement, Unenforceability, and Invalidity Contentions for U.S. Patent No. 6,696,941 and make accompanying document production, and deadline for Defendants Wingtech International Inc., Wingtech Technology Co., and Wingtech Co. Ltd. to serve all Non-Infringement, Unenforceability, and Invalidity Contentions and make accompanying document production.
June 23, 2023 <sup>2</sup>	July 14, 2023	Deadline to Exchange Proposed Terms for Construction.
July 7, 2023	July 28, 2023	Deadline to Exchange of Preliminary Claim Constructions and Extrinsic Evidence.
June 23, 2023 <sup>3</sup>	July 14, 2023	Deadline to file joint interim status report.
July 28, 2023	August 18, 2023	Deadline to File Joint Claim Construction and Prehearing Statement.
August 18, 2023	September 8, 2023	Deadline to complete claim construction discovery.  Deadline to file a motion to stay the lawsuit pending reexamination in the U.S. Patent Office.  Deadline to file proposed order scheduling mediation, setting forth the name of the mediator, and the date, time, and location of the mediation, consistent with the order of referral to mediation.
September 1, 2023	September 22, 2023	Deadline for any party claiming patent infringement to file opening claim construction brief (simultaneous opening briefs are not permitted) and deadline to file opening brief

<sup>2</sup> This date currently precedes the June 30, 2023, deadline for Defendants' responsive patent contentions for the '941 Patent and Wingtech's responsive patent contentions for all 13 asserted patents.

<sup>3</sup> This date currently precedes the June 30, 2023, deadline for Defendants' responsive patent contentions for the '941 Patent and Wingtech's responsive patent contentions for all 13 asserted patents.

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