

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SIPCO, LLC, and IP CO, LLC
(d/b/a INTUS IQ),

Plaintiffs,

v.

Civil Action No. 6:15-cv-907

EMERSON ELECTRIC CO., EMERSON
PROCESS MANAGEMENT LLLP, FISHER-
ROSEMOUNT SYSTEMS, INC.,
ROSEMOUNT INC., BP, p.l.c., BP
AMERICA, INC., and BP AMERICA
PRODUCTION COMPANY,

Defendants.

DOCKET CONTROL ORDER

It is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

<p>3 DAYS after conclusion of Trial</p>	<p>Parties to file Motion to Seal Trial Exhibits, if they wish to seal any highly confidential exhibits.</p> <p>EXHIBITS: See Order Regarding Exhibits below.</p>
<p>May 22, 2017</p> <p>To be assigned by the Court</p> <p>Court designated date – not flexible without good cause - Motion Required</p>	<p>9:00 a.m. JURY TRIAL before Judge Robert W. Schroeder III, Tyler, Texas.</p> <p>For planning purposes, parties shall be prepared to start the evidentiary phase of trial immediately following jury selection.</p>
<p>May 5, 2017</p> <p>Court designated date – not flexible without good cause - Motion Required</p>	<p>9:00 a.m. JURY SELECTION before Judge Robert W. Schroeder III, Tyler, Texas.</p>

<p>April 13, 2017</p> <p>Court designated date – not flexible without good cause - Motion Required</p>	<p>9:00 a.m. PRETRIAL CONFERENCE before Judge K. Nicole Mitchell, Tyler, Texas.</p> <p>Discuss trial logistics and <i>voir dire</i> procedure. Resolve any pending motions or objections. Lead trial counsel must attend the pretrial conference.</p>
<p>April 6, 2017</p>	<p>File a Notice of Time Requested for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.</p>
<p>April 6, 2017</p>	<p>File Responses to Motions <i>in Limine</i>.</p>
<p>March 30, 2017</p>	<p>File Motions <i>in Limine</i> and pretrial objections.</p> <p>The parties are ORDERED to meet and confer to resolve any disputes before filing any motion <i>in limine</i> or objection to pretrial disclosures.</p>
<p>March 30, 2017</p>	<p>File Joint Final Pretrial Order, Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials.</p> <p>Parties shall use the pretrial order form on Judge Schroeder’s website.</p> <p>Proposed Findings of Fact and Conclusions of Law with citation to authority for issues tried to the bench.</p>
<p>March 23, 2017</p>	<p>Exchange Objections to Rebuttal Deposition Testimony.</p>
<p>March 16, 2017</p>	<p>Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings due.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial or hearings, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Brenda Hightower Smith, at brenda_smith@txed.uscourts.gov.</p>
<p>March 16, 2017</p>	<p>Exchange Rebuttal Designations and Objections to Deposition Testimony.</p> <p>For rebuttal designations, cross examination line and page numbers to be included.</p> <p>In video depositions, each party is responsible for preparation of the final edited video in accordance with their parties’ designations and the Court’s rulings on objections.</p>

<p>March 16, 2017</p> <p>Court designated date – not flexible without good cause - Motion Required</p>	<p>9:00 a.m. HEARING ON ANY REMAINING DISPOSITIVE MOTIONS (INCLUDING DAUBERT MOTIONS) before Judge K. Nicole Mitchell, Tyler, Texas.</p>
<p>March 2, 2017</p>	<p>Exchange Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof.</p> <p>Video and Stenographic Deposition Designation due. Each party who proposes to offer deposition testimony shall serve a disclosure identifying the line and page numbers to be offered.</p>
<p>January 2, 2017</p> <p>Court designated date – not flexible without good cause – Motion Required</p>	<p>Any Remaining Dispositive Motions due from all parties and any other motions that may require a hearing (including Daubert motions).</p> <p>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u></p> <p>For each motion filed, the moving party shall provide the Court with one (1) copy of the completed briefing (opening motion, response, reply, and if applicable, surreply), excluding exhibits, in a three-ring binder appropriately tabbed. All documents SHALL be double-sided and must include the CM/ECF header. These copies shall be delivered to Judge Schroeder’s chambers in Texarkana as soon as briefing has completed.</p> <p>Respond to Amended Pleadings.</p>
<p>December 26, 2016</p>	<p>Parties to Identify Rebuttal Trial Witnesses.</p>
<p>December 19, 2016</p>	<p>Parties to Identify Trial Witnesses; Amend Pleadings (after <i>Markman</i> Hearing).</p> <p>It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings. It is necessary to file a Motion for Leave to Amend after the deadline. However, except as provided in Patent Rule 3-6, if the amendment would affect infringement contentions or invalidity contentions, a motion must be made pursuant to Patent Rule 3-6 irrespective of whether the amendment is made prior to this deadline.</p>
<p>December 12, 2016</p>	<p>Expert Discovery Deadline.</p>

November 21, 2016	<p>Parties designate rebuttal expert witnesses (non-construction issues), rebuttal expert witness reports due. Refer to Local Rules for required information.</p> <p>If, without agreement, a party serves a supplemental expert report after the rebuttal expert report deadline has passed, the serving party must file notice with the Court stating service has occurred and the reason why a supplemental report is necessary under the circumstances.</p>
November 7, 2016	Final Election of Asserted Prior Art.
October 31, 2016	Parties with burden of proof designate expert witnesses (non-construction issues). Expert witness reports due. Refer to Local Rules for required information.
October 31, 2016	Fact discovery deadline.
October 13, 2016	Comply with P.R. 3-7. (Opinion of Counsel Defenses)
October 10, 2016	Final Election of Asserted Claims.
September 22, 2016 Court designated date – not flexible without good cause – Motion Required	Markman Hearing and hearing on any Motion for Summary Judgment of Indefiniteness at 9:00 a.m. before Judge K. Nicole Mitchell, Tyler, Texas.
September 8, 2016	<p>P.R. 4-5(d) Chart due.</p> <p>The parties are to meet and confer and jointly submit a claim construction chart on computer disk in Word format listing each party's proposed construction for each of the terms to be addressed at the <i>Markman</i> hearing, including any terms purported to be indefinite. The parties should <u>prioritize</u> and list the terms <u>in order of most importance</u>; the Court will address the terms in the prioritized order presented in the claim construction chart.</p>

September 1, 2016	<p>Parties to file a notice with the Court stating the estimated amount of time requested for the <i>Markman</i> Hearing. The Court will notify the parties if it is unable to accommodate this request.</p> <p>Comply with P.R. 4-5(c) - Reply brief and supporting evidence regarding claim construction due. Plaintiff is to provide the Court with one (1) copy of the completed <i>Markman</i> briefing in its entirety (opening brief, response, and reply) and exhibits in a three-ring binder appropriately tabbed. All documents SHALL be double-sided and must include the CM/ECF header. These copies shall be delivered to Judge Schroeder's chambers in Texarkana as soon as briefing has completed.</p> <p>If a technical advisor has been appointed the moving party is to provide their <i>Markman</i> brief on disk or CD along with a hard copy, tabbed and bound with exhibits to the advisor.</p>
August 25, 2016	Comply with P.R. 4-5(b) - Responsive claim construction brief and supporting evidence due.
August 11, 2016	<p>Comply with P.R. 4-5(a) - The party claiming patent infringement shall serve and file an opening brief and any evidence supporting its claim construction.</p> <p>Briefing shall comply with Local Rules CV-7 and 56 and Patent Rule 4-5(e). <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than joint agreement among the parties.</u></p> <p>Tutorials due. Deadline for parties, if they desire, to provide Court with tutorials concerning technology involved in patent(s). The parties shall submit one (1) copy of their tutorials to the Court. If a technical advisor has been appointed, each party that provides a tutorial shall provide a copy to the advisor.</p> <p>Preliminary Election of Asserted Prior Art.</p>
August 11, 2016	<p>Proposed Technical Advisors due if one has not already been appointed. Parties to provide name, address, phone number, and curriculum vitae for up to three agreed technical advisors <u>and information regarding the nominees' availability for <i>Markman</i> hearing</u> or a statement that an agreement could not be reached. If the parties cannot agree on a technical advisor, they shall not submit any proposed technical advisors to the Court. If the parties feel a technical advisor is unnecessary, they shall alert the Court at this time.</p>
July 28, 2016	<p>Discovery Deadline - Claim Construction Issues.</p> <p>Preliminary Election of Asserted Claims.</p>

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