

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FRACTUS, S.A.

Plaintiff,

v.

**ZTE CORPORATION, ZTE (USA),
INC., ZTE (TX), INC.**

Defendants.

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Civil Action No. 3:18-CV-02838-K

JURY TRIAL DEMANDED

JOINT NOTICE REGARDING SCHEDULING CONFERENCE

Pursuant to the Order Requiring Scheduling Conference and Report for Contents of Scheduling Order (Dkt. No. 160), the parties hereby submit this Joint Notice. The parties have agreed on a proposed schedule for the remainder of the case, with trial to begin November 4, 2019.

1) A brief statement of the claims

- a. This is a patent infringement case. The plaintiff Fractus is the owner of the seven Asserted Patents: U.S. Patent Nos. 7,394,432, 7,397,431, 8,941,541, 8,976,069, 9,054,421, 9,240,632, and 9,362,617. The patents disclose antennas formed by geometric elements that are capable of operating at multiple frequency bands.
- b. Fractus alleges that a variety of ZTE mobile devices infringe one or more of the Asserted Patents.
- c. ZTE contends that it does not infringe the Asserted Patents, that all claims of the Asserted Patents are invalid under 35 U.S.C. § 103 as obvious and some claims also are invalid under 35 U.S.C. § 112.

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2) **A proposed time limit to file motions for leave to join other parties**

a. The parties agree that the time to file motions for leave to join other parties has passed.

3) **A proposed time limit to amend pleadings**

a. The parties agree that the time limit to amend pleadings has passed.

4) **A proposed time limit to file various types of motions, including dispositive motions.**

a. The parties request that dispositive motions and motions to strike expert testimony (including *Daubert* motions) be due June 24, 2019, and that motions in limine be due on September 27, 2019.

5) **A proposed time limit for initial designation of experts**

a. The parties have already designated experts and served initial and rebuttal expert reports.

6) **A proposed time limit for responsive designation of experts**

a. The parties have already designated experts and served initial and rebuttal expert reports.

7) **A proposed time limit for objections to experts (i.e. *Daubert* and similar motions)**

a. The parties request that dispositive motions and motions to strike expert testimony (including *Daubert* motions) be due June 24, 2019.

8) **A proposed plan and schedule for discovery, a statement of the subjects on which discovery may be needed, a time limit to complete factual discovery and expert discovery, and a statement of whether discovery should be conducted in phases or limited to particular issues**

a. Fact discovery in this case is complete.

b. Fractus notes that there is a pending motion to compel relating to the number of unit sales of ZTE devices. Dkt. No. 144. Fractus believes resolution of the pending motion will only impact the number of units sold, not the royalty rate applied to each infringing unit, and will not require significant additional fact discovery.

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- c. Each party has served three expert reports. On behalf of Fractus, Dr. Stuart Long served an infringement report and a rebuttal validity report. Mr. Robert Mills served a report on damages. On behalf of ZTE, Dr. Chris Bartone served an invalidity report and a rebuttal non-infringement report. Mr. Vincent Thomas served a rebuttal report on damages.
- d. The parties proposed that the deadline to complete expert discovery be May 31, 2019. Pursuant to the Discovery Order entered by the Eastern District of Texas (Dkt. No. 54), the parties request that expert depositions be limited to seven (7) hours per witness per expert report, but not to exceed twelve (12) hours total per expert witness.

9) **What changes should be made in the limitations on discovery imposed under the Federal Rules of Civil Procedure or by local rule, and what other limitations should be imposed**

- a. Fact discovery in this case is complete.

10) **A proposed trial date, estimated number of days required for trial, and whether a jury has been properly demanded**

- a. The parties propose a trial date of November 4, 2019, with five (5) days for trial. Trial by jury has been properly demanded in this case.

11) **A proposed date for further settlement negotiations**

- a. The parties propose that additional settlement negotiations be conducted by September 1, 2019.

12) **Objections to FRCP 26(a)(1) asserted at the Scheduling Conference**

- a. There are no objections to FRCP 26(a)(1).

13) **Whether the parties will consent to trial before a U.S. Magistrate Judge**

- a. The parties do not consent to trial before a U.S. Magistrate Judge.

14) **Whether the parties are considering mediation or arbitration to resolve this litigation and a statement of when alternative dispute resolution would be most effective, and if mediation is proposed, the name of any mediator the parties jointly recommend to mediate the case**

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- a. The parties have previously engaged in mediation in an attempt to resolve the litigation before William Cornelius, who was assigned as mediator by the Eastern District of Texas.

15) Any other proposals regarding scheduling and discovery that the parties believe will facilitate expeditious and orderly preparation for trial

- a. The parties propose the following schedule for the remainder of the case:

Date	Event
November 4, 2019	Jury Selection and Trial
October 30, 2019	Pretrial Conference
October 16, 2019	File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
September 27, 2019	File Motions <i>in Limine</i> ; Serve Objections to Rebuttal Pretrial Disclosures
September 13, 2019	Serve Objections to Pretrial Disclosures; Serve Rebuttal Pretrial Disclosures
September 6, 2019	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
June 24, 2019	File Dispositive Motions and Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)
May 31, 2019	Deadline to Complete Expert Discovery

16) Whether a conference with the Court is desired and the reasons for requesting a conference

- a. A conference with the Court is not necessary at this time.

17) Any other matters relevant to the status and disposition of this case.

- a. None.

Fractus S.A.

Dated: April 12, 2019

Respectfully submitted,

/s/ Ophelia Camina

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