

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

FINTIV, INC.,

Plaintiff,

v.

APPLE INC.,

Defendant.

§
§
§
§
§
§
§

C.A. No. 6:18-cv-372-ADA

JURY TRIAL DEMANDED

**AGREED SCHEDULING ORDER SUBSEQUENT
TO CASE MANAGEMENT CONFERENCE
(Case Management Conference (“CMC”) May 30, 2019)**

DEADLINE	ITEM
May 20, 2019	Plaintiff serves preliminary ¹ infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also produce (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
June 13, 2019	Deadline for Motions to Transfer.
July 25, 2019	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the prior two years, unless the parties agree to some other timeframe.

¹ The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served and should do so seasonably upon identifying any such material. Any amendment to add claims requires leave of court so that the Court can address any scheduling issues.

DEADLINE	ITEM
August 8, 2019	Parties exchange claim terms for construction.
August 22, 2019	Parties exchange proposed claim constructions.
September 5, 2019	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
September 12, 2019	Parties file Opening claim construction briefs, including any arguments that any claim terms are indefinite.
October 3, 2019	Parties file Responsive claim construction briefs.
October 17, 2019	Parties file Reply claim construction briefs.
October 24, 2019	Parties submit Joint Claim Construction Statement, optional tutorials, and consolidated briefing collated by Opening, Response, and Reply.
November 8, 2019	Markman Hearing at 9:00 a.m. in Austin, Texas.
November 14, 2019	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
December 19, 2019	Deadline to add parties.
January 9, 2020	Deadline to serve Final Infringement and Invalidity Contentions.
January 30, 2020	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims.
March 26, 2020	Deadline to serve privilege log
April 23, 2020	Deadline for plaintiff to narrow the number of claims asserted.
April 23, 2020	Close of Fact Discovery.
May 7, 2020	Opening Expert Reports. Deadline for defendant to narrow the number of prior art references at issue.
June 11, 2020	Rebuttal Expert Reports.
July 16, 2020	Close of Expert Discovery.
August 6, 2020	Dispositive motion deadline and <i>Daubert</i> motion deadline.
August 20, 2020	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, designations).
September 3, 2020	Serve objections to pretrial disclosures/rebuttal disclosures.
September 10, 2020	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
September 17, 2020	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, designations); file oppositions to motions <i>in limine</i> .
September 24, 2020	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .

DEADLINE	ITEM
October 5, 2020	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .

SIGNED this 10th day of June, 2019.



ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE

AGREED TO:

J. Mark Mann

J. Mark Mann (TX Bar No. 12926150)

mark@themannfirm.com

G. Blake Thompson (TX Bar No. 24042033)

blake@themannfirm.com

MANN | TINDEL | THOMPSON

300 W. Main Street, Henderson, TX 75652

913 Franklin Ave., Suite 201, Waco, TX 76701

Telephone: (903) 657-8540

Facsimile: (903) 657-6003

Andy Tindel (TX Bar No. 20054500)

atindel@andytindel.com

MANN | TINDEL | THOMPSON

112 E. Line Street, Suite 304

Tyler, Texas 75702

Telephone: (903) 596-0900

Facsimile: (903) 596-0909

Craig D. Cherry (TX Bar No. 24012419)

ccherry@haleyolson.com

HALEY & OLSON, P.C.

100 N. Ritchie Road, Suite 200

Waco, TX 76701

Telephone: (254) 776-3336

Facsimile: (254) 776-6823

Jonathan K. Waldrop (CA Bar No. 297903)

jwaldrop@kasowitz.com

Darcy L. Jones (CA Bar No. 309474)

djones@kasowitz.com

Marcus A. Barber (CA Bar No. 307361)

mbarber@kasowitz.com

John W. Downing (CA Bar No. 252850)

jdowning@kasowitz.com

Heather S. Kim (CA Bar No. 277686)

hkim@kasowitz.com

Jack Shaw (CA Bar No. 309382)

jshaw@kasowitz.com

Gurtej Singh (CA Bar No. 286547)

gsingh@kasowitz.com

KASOWITZ BENSON TORRES LLP

333 Twin Dolphin Drive, Suite 200

Redwood Shores, CA 94065

Telephone: (650) 453-5170

Facsimile: (650) 453-5171

Daniel C. Miller (NY Bar No. 4232773) (*pro hac vice*)

dcmiller@kasowitz.com

KASOWITZ BENSON TORRES LLP

1399 New York Avenue NW, Suite 201

Washington, DC 20005

Telephone: (202) 760-3400

Facsimile: (202) 760-3401

Rodney R. Miller (TX Bar No. 24070280)

rmiller@kasowitz.com

KASOWITZ BENSON TORRES LLP

1349 West Peachtree Street N.W., Suite 1500

Atlanta, GA 30309

Telephone: (404) 260-6080

Facsimile: (404) 260-6081

Attorneys for Plaintiff, FINTIV, INC.

/s/ Claudia Wilson Frost

Claudia Wilson Frost – Lead Counsel

State Bar No. 21671300

ORRICK, HERRINGTON & SUTCLIFFE LLP

609 Main, 40th Floor

Houston, TX 77002

Telephone: 713.658.6400

Facsimile: 713.658.6401

cfrost@orrick.com

Travis Jensen (CA Bar No. 259925)

ORRICK, HERRINGTON & SUTCLIFFE LLP

1000 Marsh Rd.

Menlo Park, CA 942025

Telephone: 650.614.7400

Facsimile: 650.614.7401

tjensen@orrick.com

Attorneys for Defendant APPLE INC.