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and LG ELECS. MOBILE RES. U.S.A., LLC

18 **UNITED STATES DISTRICT COURT**
19 **SOUTHERN DISTRICT OF CALIFORNIA**

20 BELL NORTHERN RESEARCH,
21 LLC,

22 Plaintiff,

23 v.

24 LG ELECTRONICS INC., LG
25 ELECTRONICS U.S.A., INC., and
26 LG ELECTRONICS MOBILE
RESEARCH U.S.A., LLC,

27 Defendants.

Case No. 3:18-CV-2864-CAB-BLM

**JOINT NOTICE OF PROPOSED
SCHEDULING ORDER AND NOTICE
REGARDING *INTER PARTES*
REVIEWS**

Judge: Hon. Cathy Bencivengo

Magistrate Judge: Hon. Barbara Lynn Major

1 On January 16, 2020, the Court held a claim construction hearing in the
2 above-captioned matter. At the end of that hearing, the Court instructed the parties
3 to submit, within two weeks (*i.e.*, by January 30, 2020), a joint proposed schedule
4 for the remainder of the case until trial, with an expected trial date in either
5 November or December 2020.¹ The Court further asked that the parties include a
6 discussion of the status of any *inter partes* review (“IPR”) proceedings involving
7 the patents asserted in this matter. Pursuant to the Court’s instructions, Plaintiff
8 Bell Northern Research, LLC (“BNR”) and Defendants LG Electronics Inc., LG
9 Electronics U.S.A., Inc., and LG Electronics Mobile Research U.S.A., LLC
10 (collectively, “LG”) jointly submit the following proposed schedule and notice
11 regarding IPRs.

12 **I. Proposed Schedule**

13 As the Court instructed, the parties have agreed upon a proposed schedule
14 for the remainder of the case up until trial. Attached as **Exhibit A** is a Proposed
15 Scheduling Order Regulating Discovery and Other Pretrial Proceedings, which
16 implements the parties’ agreed-upon schedule. The proposed order in Exhibit A is
17 based on a similar order entered by the Court as Docket Entry No. 87 in *Bell*
18 *Northern Research, LLC v. Coolpad Technologies, Inc.*, Case No. 18-cv-1783-
19 CAB-BLM (S.D. Cal.). The proposed order includes the deadlines listed in the
20

21
22 ¹ According to the Case Management Order, the parties were required to “contact the
23 chambers of Judge Major within seven days of Judge Bencivengo’s ruling on the
24 Claim Construction to set the remaining dates.” [Dkt. No. 38 at 4.] Judge
25 Bencivengo issued a ruling on claim construction on January 21, 2020, [Dkt. No. 99],
26 thus requiring the parties to contact Judge Major’s chambers by January 28, 2020.
27 Pursuant to this requirement, counsel for BNR and LG jointly called Judge Major’s
28 chambers on January 28, 2020, to indicate that the parties would be submitting a
proposed schedule by January 30, 2020, as requested by Judge Bencivengo at the
claim construction hearing.

1 table below. While the parties have respectfully suggested deadlines, the parties
 2 will abide by whatever deadlines the Court may wish to set.

| Event | Date |
|--|---|
| Completion of fact discovery | April 17, 2020 |
| Designation of experts | April 17, 2020 |
| Confidential settlement statements due | Seven (7) calendar days before the mandatory settlement conference or a date of the Court's convenience |
| Mandatory settlement conference | At a date and time of the Court's convenience |
| Supplemental designation of experts | May 8, 2020 |
| Opening expert reports | May 22, 2020 |
| Rebuttal expert reports | July 2, 2020 |
| Completion of expert discovery | July 31, 2020 |
| Dispositive and Daubert motions | August 28, 2020 |
| Oppositions to dispositive and Daubert motions | September 17, 2020 |
| Replies in support of dispositive and Daubert motions | September 25, 2020 |
| Hearing on dispositive and Daubert motions | To be determined at the Court's convenience and discretion |
| Pretrial disclosures required by Fed. R. Civ. P. 26(a)(3) | November 2, 2020 |
| Meet and confer pursuant to Local Civil Rule 16.1(f)(4) regarding the pretrial order | November 9, 2020 |
| Plaintiff provides defendant with proposed pretrial order | November 16, 2020 |
| Motions in limine | November 16, 2020 |
| Proposed final pretrial conference order lodged with Judge Bencivengo's chambers | November 23, 2020 |
| Oppositions to motions in limine | November 23, 2020 |
| Final pretrial conference | November 30, 2020 at 9:00 a.m., or at a date and time of the Court's convenience |
| Trial | At a date and time of the Court's convenience |

28 JOINT NOTICE OF PROPOSED SCHEDULING ORDER AND NOTICE REGARDING *INTER*
 PARTIES REVIEW

1 Regarding a trial date, the parties respectfully submit that the above
2 proposed schedule prepares the case for trial by December 2020, consistent with
3 the Court’s request during the claim construction hearing. BNR respectfully
4 requests that the trial date be set for a time other than the week of November 30
5 and December 7 due to another trial at which BNR’s damages expert is expected to
6 testify.

7 **II. Notice Regarding *Inter Partes* Reviews**

8 As the Court requested, the parties respectfully apprise the Court of the
9 status of any pending IPRs regarding the patents-in-suit.

10 BNR is currently asserting six patents in this matter: U.S. Patent Nos.
11 8,416,862 (“the ’862 patent”); 7,957,450 (“the ’450 patent”); 8,792,432 (“the ’432
12 patent”); 7,039,435 (“the ’435 patent”); and 6,549,792 (“the ’792 patent”). BNR
13 had also asserted 7,945,285 (“the ’285 patent”), but in view of the Court’s
14 *Markman* rulings with regard to that patent, BNR will likely not substantively
15 pursue its claims of infringement of the ’285 patent in this case.

16 In November and December 2019, LG filed petitions with the U.S. Patent
17 and Trademark Office’s Patent Trial and Appeal Board (“PTAB”) seeking the
18 institution of IPR on five of the six patents—the ’862, ’450, ’435, ’792, and ’285
19 patents—as set forth in more detail below. The ’435 patent is also the subject of
20 an IPR petition filed by ZTE (USA) Inc., as set forth in more detail below.

21 **The ’862 Patent**

22 LG filed a petition for IPR of the ’862 patent on November 12, 2019,
23 challenging all claims asserted in this matter. *See LG Electronics Inc. v. Bell*
24 *Northern Research, LLC*, Case No. IPR2020-00108, Paper No. 2 (PTAB). On
25 November 21, 2019, the PTAB issued a notice of filing date of November 12,
26 2019, and gave BNR three months (until February 21, 2020) to file a preliminary
27

1 response to the petition. *Id.*, Paper No. 4. Pursuant to 35 U.S.C. § 314(b), the
2 PTAB must issue a decision on institution of the IPR no later than May 21, 2020.

3 **The '450 Patent**

4 LG filed a petition for IPR of the '450 patent on December 19, 2019,
5 challenging all claims asserted in this matter. *See LG Electronics Inc. v. Bell*
6 *Northern Research, LLC*, Case No. IPR2020-00318, Paper No. 2 (PTAB). On
7 December 23, 2019, the PTAB issued a notice of filing date of December 19,
8 2019, and gave BNR three months (until March 23, 2020) to file a preliminary
9 response to the petition. *Id.*, Paper No. 3. Pursuant to 35 U.S.C. § 314(b), the
10 PTAB must issue a decision on institution of the IPR no later than June 23, 2020.

11 **The '435 Patent**

12 LG filed a petition for IPR of the '435 patent on December 19, 2019,
13 challenging all claims asserted in this matter. *See LG Electronics Inc. v. Bell*
14 *Northern Research, LLC*, Case No. IPR2020-00319, Paper No. 2 (PTAB). On
15 December 23, 2019, the PTAB issued a notice of filing date of December 19,
16 2019, and gave BNR three months (until March 23, 2020) to file a preliminary
17 response to the petition. *Id.*, Paper No. 3. Pursuant to 35 U.S.C. § 314(b), the
18 PTAB must issue a decision on institution of the IPR no later than June 23, 2020.

19 The '435 patent is also the subject of a petition for IPR filed by ZTE (USA)
20 Inc. on July 24, 2019. *See ZTE (USA) Inc. v. Bell Northern Research*, Case No.
21 IPR2019-01365, Paper No. 1 (PTAB). BNR filed a preliminary response to ZTE's
22 petition on November 12, 2019. *Id.*, Paper No. 8. Pursuant to 35 U.S.C. § 314(b),
23 the PTAB must issue a decision on institution of the IPR no later than February 12,
24 2020.

25 **The '792 Patent**

26 LG filed a petition for IPR of the '792 patent on December 20, 2019,
27 challenging all claims asserted in this matter. *See LG Electronics Inc. v. Bell*

28 JOINT NOTICE OF PROPOSED SCHEDULING ORDER AND NOTICE REGARDING *INTER*
Patents Review

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