

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PACT XPP SCHWEIZ AG)
)
Plaintiff,) C.A. No. 19-1006-RGA
)
v.)
)
INTEL CORPORATION,)
)
Defendant.)

PROPOSED SCHEDULING ORDER

This 16 day of July, 2019, the Court having conducted an initial scheduling conference pursuant to Local Rule 16.1(b), and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Initial Disclosures and Discovery.
 - a. Rule 26(a)(1) Initial Disclosures. The parties shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) on or before July 15, 2019.
2. Joinder of Other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before March 13, 2020, except that the deadline to amend pleadings to add a claim or defense for unenforceability due to inequitable conduct shall be filed on or before June 5, 2020.
3. Discovery.
 - a. Discovery Cut Off. All discovery in this case shall be initiated so that it will be completed on or before October 2, 2020.
 - b. Document Production. Document production shall be substantially complete by May 6, 2020.

c. Requests for Admission. A maximum of 100 requests for admission are permitted for each side. There shall be no limit, however, on the number of requests for admission for the purposes of authenticating documents, although the parties agree to cooperate to reduce, if not eliminate altogether, objections based on authenticity and thus the need to serve requests for admission for authentication purposes.

d. Interrogatories. A maximum of 30 interrogatories, including contention interrogatories, are permitted for each side.

e. Depositions.

i. Limitation on Hours for Fact Deposition Discovery. Each side is limited to a total of 120 hours of taking testimony by deposition upon oral examination of fact witnesses, including third party depositions. The deposition of Martin Vorbach, in his personal capacity, is limited to no more than 14 hours unless otherwise agreed or Ordered by Court. The Parties shall meet and confer on time limits of Rule 30(b)(6) witnesses depending on the number of topics on which a witness is designated to testify. The parties will work together in good faith to avoid the unnecessary duplication of deposition topics where witnesses are deposed in both their Rule 30(b)(6) and Rule 30(b)(1) capacities. Notwithstanding the foregoing, for depositions where a translator is used the parties will work in good-faith to accommodate reasonable requests for additional hours.

ii. Location of Depositions. Any party or representative (officer, director, or managing agent) of a party filing a civil action in this district court must ordinarily be required, upon request, to submit to a deposition at a place designated within this district.

Exceptions to this general rule may be made by order of the Court or by agreement of the parties.

A defendant who becomes a counterclaimant, cross-claimant, or third-party plaintiff shall be

considered as having filed an action in this Court for the purpose of this provision. Party or representative deponents who live in the United States (including Fed. R. Civ. P. 30(b)(6) designees and party representatives) shall be deposed within 100 miles of their residence or the California offices of their counsel, unless otherwise agreed by the parties.

iii. Expert Deposition Discovery. The parties shall meet and confer concerning the length of expert depositions within 5 days of the exchange of answering expert reports. To the extent the parties cannot reach agreement, the parties shall follow the procedures of subparagraph (f) of this paragraph.

iv. Foreign Witnesses. If a Party wishes to call a non-U.S. resident as trial witness, said party must make a good faith representation identifying the witness on or before May 6, 2020 and the parties shall work together in good faith to arrange the deposition of such witness before the discovery cutoff. For good cause, balanced against any significant prejudice to the other party, a party may seek leave of Court to identify any additional non-U.S. resident trial witnesses after May 6, 2020, and if permitted by the Court to add such witnesses, the parties shall promptly work together to arrange the witnesses' deposition.

f. Discovery Matters and Disputes Relating to Protective Orders and ESI Orders. Should counsel find they are unable to resolve a discovery matter or a dispute relating to a protective order or ESI order, the parties involved in the discovery matter or protective/ESI order dispute shall contact the Court's Case Manager to schedule an in-person conference/argument. Unless otherwise ordered, by no later than forty-eight hours prior to the conference/argument, the party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. By no later than twenty-four hours prior to the conference/argument, any party opposing the application for relief may

file a letter, not to exceed three pages, outlining that party's reasons for its opposition. Should any document(s) be filed under seal, a courtesy copy of the sealed document(s) must be provided to the Court within one hour of e-filing the document(s).

If a discovery-related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

4. Application to Court for Protective Order. The parties shall submit a stipulated Protective Order on or before July 25, 2019 and a stipulated ESI Order on or before August 26, 2019. Should counsel be unable to reach an agreement on a proposed form of order, counsel must follow the provisions of Paragraph 3(f) above.

Any proposed protective order must include the following paragraph:

Other Proceedings. By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subject to a motion to disclose another party's information designated as confidential pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

5. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one copy of the papers. A redacted version of any sealed document shall be filed electronically within seven days of the filing of the sealed document.

6. Courtesy Copies. The parties shall provide to the Court two courtesy copies of all briefs and one courtesy copy of any other document filed in support of any briefs (i.e., appendices, exhibits, declarations, affidavits etc.). This provision also applies to papers filed under seal.

7. Initial Discovery in Patent Litigation.

b. On or before July 15, 2019, the plaintiff shall specifically identify the accused products/methods and the asserted patents defendant allegedly infringes, and produce the file history for each asserted patent.

c. On or before August 30, 2019, defendant shall produce to the plaintiff the core technical documents related to the accused products/methods, including but not limited to operation manuals, product literature, schematics, and specifications.

d. On or before October 11, 2019, plaintiff shall produce to defendant an initial claim chart relating each accused product/method to each asserted claim that each product allegedly infringes. Plaintiff shall initially select no more than 180 claims to chart, and for good cause may seek to substitute or add new claims within the 180 claim limit in a reasonable and prompt period of time after Intel serves its invalidity contentions. Good cause includes but is not limited to prior art produced by Intel after PACT selects its initial 180 claims.

e. On or before November 22, 2019, defendant shall produce to the plaintiff its initial invalidity contentions for each asserted claim, as well as the related invalidating references (e.g., publications, manuals, and patents).

8. Narrowing of the Asserted Claims and Prior Art References.

a. On October 1, 2020, Plaintiff shall serve its Second Election of Asserted Claims, which shall identify no more than 60 total asserted claims.

b. On October 8, 2020, Defendant shall serve its Second Election of Asserted Prior Art.

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