

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

THETA IP, LLC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
and SAMSUNG ELECTRONICS
AMERICA, INC.

Defendants.

Civil Action No.: WA:20-CV-00160-ADA

JURY TRIAL DEMANDED

SCHEDULING ORDER

On November 5, 2020, the Court published its latest Order Governing Proceedings for Patent Cases (“OGP 3.2”). On November 9, 2020, the Court issued a Standing Order Regarding Updated Order Governing Proceedings – Patent Cases. In view of that Order and in view of the previous discussions regarding claim construction between the parties, the parties submitted an agreed revised proposed scheduling order on November 12, 2020 (Dkt. 34) that set forth the parties’ agreed proposal for the timing, content, and page length of claim construction briefs and subsequent deadlines to account for the revised procedures set forth in OGP 3.2.

On November 13, 2020, the Court instructed the parties to confer and submit a revised schedule that did not disturb the *Markman* hearing, which is currently set for January 8, 2021. The parties’ agreed proposed revised schedule (which includes the reallocation of page limits for claim construction briefing in view of the parties’ agreements reflected in Dkt. 34) is set forth below:

Proposed Date	Event
November 20, 2020	Plaintiff files Opening claim construction brief. Plaintiff provides its position on the lack of indefiniteness of the proposed terms for construction and will, in good faith, respond to all pre-briefing disclosures but shall not be required to serve an expert declaration. ¹ Plaintiff's brief will be limited to twenty-five pages.
December 4, 2020	Defendant files Responsive claim construction brief. Defendant's brief will be limited to twenty-five pages.
December 16, 2020	Plaintiff files Reply claim construction brief. Plaintiff's brief will be limited to twenty pages.
December 30, 2020	Defendant files Sur-Reply claim construction brief. Defendant's brief will be limited to twenty pages.
January 2, 2021	Parties submit Joint Claim Construction Statement. In addition to filing, the parties shall jointly submit, via USB drive, cloud-storage, or email to the law clerk pdf versions of all as-filed briefing and exhibits. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
January 8, 2021 ²	<i>Markman</i> Hearing (1/2 day)
January 15, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
February 19, 2021	Deadline to add parties.
March 5, 2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.

¹ Plaintiff has proposed a construction of "not indefinite under its plain and ordinary meaning" for those terms Defendant proposes are indefinite. To the extent Plaintiff proposes an alternative construction that is not "plain and ordinary meaning" in its reply, Defendant reserves the right to move to strike or seek other relief.

² Post-*Markman* dates are provided based on an anticipated trial date of November 8, 2021. A party may propose an alternative trial date at the *Markman* hearing; if altered, the parties will provide a revised schedule.

Proposed Date	Event
April 2, 2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims.
June 7, 2021	Close of Fact Discovery.
June 14, 2021	Opening Expert Reports.
July 12, 2021	Rebuttal Expert Reports.
August 2, 2021	Close of Expert Discovery.
August 9, 2021	Deadline to meet and confer to discuss narrowing the number of claims asserted and prior art references at issue. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
August 16, 2021	Dispositive motion deadline and <i>Daubert</i> motion deadline.
August 30, 2021	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
September 13, 2021	Serve objections to pretrial disclosures/rebuttal disclosures.
September 20, 2021	Serve objections to rebuttal disclosures and file motions <i>in limine</i> .
September 27, 2021	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i>
October 4, 2021	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
October 13, 2021	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
October 18, 2021	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.
November 8, 2021	Jury Selection/Trial. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.

Samsung requests that all in-person hearings occur in Austin. In general, Theta does not object to in-person hearings occurring in Austin, but is agreeable to the conduct hearings in either Waco or Austin as convenient for and at the preference of the Court.

SIGNED this 17th day of November, 2020.


ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE