

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

KOSS CORPORATION,

Plaintiff,

v.

PLANTRONICS, INC. and POLYCOM, INC.,

Defendants.

Case No. 6:20-cv-00663-ADA

JURY TRIAL DEMANDED

KOSS CORPORATION,

Plaintiff,

v.

SKULLCANDY, INC.,

Defendant.

Case No. 6:20-cv-00664-ADA

JURY TRIAL DEMANDED

KOSS CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:20-cv-00665-ADA

JURY TRIAL DEMANDED

AGREED [PROPOSED] SCHEDULING ORDER

| DATE | EVENT |
|-------------------|--|
| November 6, 2020 | 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 identify the earliest priority date (<i>i.e.</i> the earliest date of invention) for each asserted claim and 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. |
| December 18, 2020 | Deadline for Motions to Transfer. |
| January 8, 2021 | Deadline for Plaintiff's response to Motions to Transfer. |
| January 15, 2021 | Deadline for Defendant's reply in support of Motion to Transfer. |
| January 15, 2021 | 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 two years preceding the filing of the Complaint, unless the parties agree to some other timeframe ² . |
| January 22, 2021 | Parties exchange claim terms for construction. |
| January 29, 2021 | Parties exchange proposed claim constructions. |
| February 5, 2021 | Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. ³ With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced. |

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 patent claims requires leave of court so that the Court can address any scheduling issues.

² Inclusion of this deadline does not prejudice any defendant's rights to raise with the Court any issues relating to an alleged lack of pre-suit notice.

³ Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

| DATE | EVENT |
|-------------------|--|
| February 12, 2021 | Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions. |
| February 19, 2021 | Plaintiff files Opening claim construction brief, including any arguments that any claim terms are indefinite. |
| March 12, 2021 | Defendant files Responsive claim construction brief. |
| March 26, 2021 | Plaintiff files reply claim construction brief. |
| April 9, 2021 | Defendant files a Sur-Reply claim construction brief. |
| April 14, 2021 | Parties submit Joint Claim Construction Statement. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed). |
| April 15, 2021 | Parties submit optional technical tutorials to the Court and technical adviser (if appointed). ⁴ |
| April 22, 2021 | <i>Markman</i> Hearing at 9:00 a.m. |
| April 23, 2021 | Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a). |
| June 3, 2021 | Deadline to add parties. |
| June 17, 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. |
| August 12, 2021 | Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.) |
| October 21, 2021 | Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues. |
| November 4, 2021 | Close of Fact Discovery. |
| November 19, 2021 | Opening Expert Reports. |
| December 23, 2021 | Rebuttal Expert Reports. |
| January 20, 2022 | Close of Expert Discovery. |

⁴ The parties should contact the law clerk to request a Box link so that they can directly upload the file to the Court's Box account.

| DATE | EVENT |
|-------------------|---|
| January 20, 2022 | Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer. |
| January 27, 2022 | Dispositive motion deadline and <i>Daubert</i> motion deadline. |
| February 10, 2022 | Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations). |
| February 24, 2022 | Serve objections to pretrial disclosures/rebuttal disclosures. |
| March 3, 2022 | Serve objections to rebuttal disclosures and File Motions <i>in limine</i> |
| March 10, 2022 | 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> . |
| March 17, 2022 | File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com . Deadline to meet and confer regarding remaining objections and disputes on Motions <i>in limine</i> . |
| March 28, 2022 | File joint notice identifying remaining objections to pretrial disclosures and disputes on Motions <i>in limine</i> . |
| March 31, 2022 | Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing. |
| April 18, 2022 | Jury Selection/Trial. The Court expects to set these dates at the conclusion of the <i>Markman</i> Hearing. |

SIGNED this ____ day of _____, 2020.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

AGREED: November 25, 2020

Respectfully submitted,

/s/ Darlene F. Ghavimi

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