

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Oxygenator Water Technologies, Inc.,

Plaintiff,

v.

Tennant Company,

Defendant.

Civil No. 20-cv-0358 (ECT/HB)

**PRETRIAL
CASE MANAGEMENT ORDER
(PATENT CASES)**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure and the Local Rules of this Court, and in order to secure the just, speedy, and inexpensive determination of this action, the following schedule shall govern these proceedings.

This schedule may be modified only upon formal motion and a showing of good cause as required by Local Rule 16.3.¹ Counsel must promptly notify the Court of developments in the case that could significantly affect the case management schedule.

The Court expects the parties and their counsel to work cooperatively throughout this litigation to narrow the issues in dispute, and to use reasonable, good faith and proportional efforts to preserve, request, identify and produce relevant information and resolve discovery disputes.

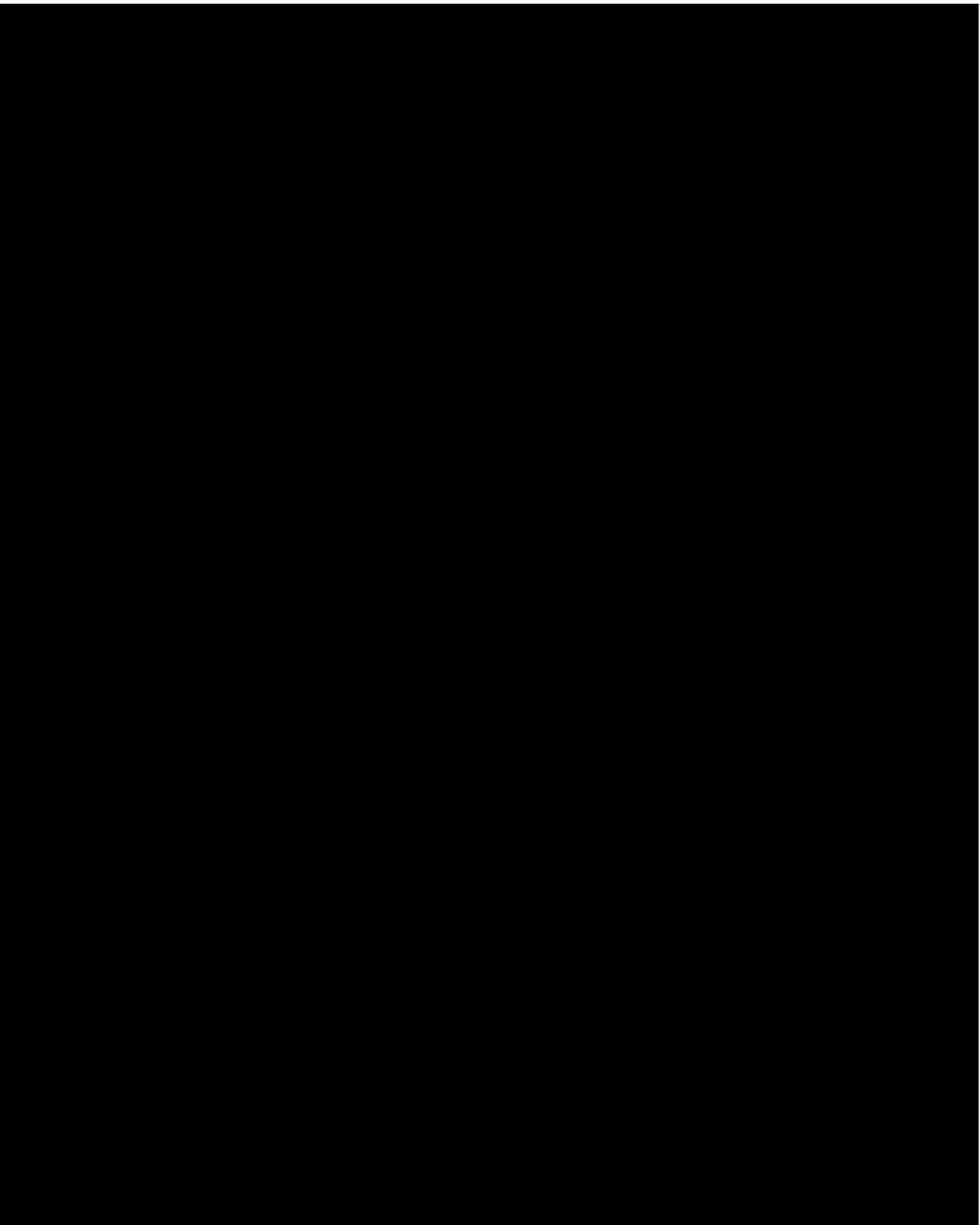
¹ Parties who agree to seek a modification of this Scheduling Order may file a joint motion with a proposed order to the Court without requesting a hearing; however, the joint motion must set forth good cause for modification of the order as required by Local Rule 16.3. The parties are reminded that even if they are in agreement, the decision about whether such a motion will be granted is ultimately that of the Court.

familiar with and adhere to these Practice Pointers, including any variances from the Local Rules.

Attachment A to this Order is a Schedule setting forth the key dates set forth in the order in chronological order. The Schedule is provided for the convenience of the Court and the parties, but is not intended to modify or supersede this Order. In all cases of apparent dispute, this Order controls.

PLEADINGS

1. All motions that seek to amend or supplement the pleadings or to add parties, together with supporting documents, must be filed and served on or before **December 3, 2020**.
2. Discovery will be permitted with respect to claims of willful infringement and defenses of patent invalidity or unenforceability not pleaded by a party, where the evidence needed to support the pleading of those claims or defenses is in whole or in part in the hands of another party. Once a party has provided the necessary discovery, and on or before the deadline set forth in Paragraph 1 above, the opposing party may seek leave of Court to add claims or defenses for which it alleges, consistent with Fed. R. Civ. P. 11, that it has support. Such support must be explained in the motion seeking leave. Leave will be liberally given where prima facie support is present, provided the party has been diligent in seeking the necessary discovery and that it seeks leave as soon as reasonably possible following receipt of the necessary discovery.
3. Any motion that seeks to amend or supplement the pleadings must include a redlined version reflecting the changes contained in the proposed pleading. (See Local Rule 15.1.)



responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest.” Boilerplate or general objections that do not clearly communicate whether and to what extent the scope of the response is more limited than the scope of the request do not meet these criteria.

8. Each side may take no more than **10 fact depositions**, including Rule 30(b)(6) and non-party depositions.

The parties agree that three business days before any scheduled 30(b)(6) deposition, the party producing the 30(b)(6) witness(es) will identify the witness(es) being produced by name and will specifically identify the topics about which each witness will be prepared to testify.

The parties do not anticipate that any deposition will be taken outside the United States or conducted in a language other than English. If it is determined that a translator will be necessary, the parties will work together in good faith to reach agreement regarding any additional hours that might be required to conduct a full deposition.

9. Based on the parties’ Draft Stipulation for Discovery Order (ECF No. 30) and the Court’s resolution of certain disputes therein, a Discovery Order governing the discovery and production of electronically stored information (“ESI”) has been entered (ECF No. 40). The parties are expected to be proactive and diligent in identifying and discussing any other issues that may arise relating to the scope, search, collection, review, and production of ESI. Any disputes that cannot be resolved through a good faith meet and confer process must be brought promptly to the Court for resolution so that such disputes do not impede the progress of discovery.
10. Claims of Privilege or Protection as Attorney Work Product.

- a. Defendant may postpone the waiver of any applicable attorney-client privilege on topics relevant to claims of willful infringement, if any, until **thirty (30) days after the Court issues its Claim Construction Order**, provided that it will produce all relevant privileged documents no later than **thirty (30) days after the Court issues its Claim Construction Order**. All additional discovery regarding the waiver must be completed **no later than the close of fact discovery or sixty (60) days after the Court issues its claim construction order, whichever is later**.
- b. Unless otherwise ordered, the parties are not obligated to include on their privilege logs documents, communications, or other materials

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