

**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 <sup>1</sup> 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 <sup>2</sup> .
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. <sup>3</sup> 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.

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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). <sup>4</sup>
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.

<sup>4</sup> 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 <b>File</b> 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 <a href="mailto:kmdaviscsr@yahoo.com">kmdaviscsr@yahoo.com</a> .  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

Darlene F. Ghavimi  
Texas State Bar No. 24072114  
K&L GATES LLP  
2801 Via Fortuna, Suite #350  
Austin, TX 78746  
Tel.: 512.482.6919  
Fax: 512.482.6859  
Darlene.ghavimi@klgates.com

Benjamin E. Weed (admitted *pro hac vice*)  
James A. Shimota (admitted *pro hac vice*)  
Philip A. Kunz (admitted *pro hac vice*)  
Erik J. Halverson (admitted *pro hac vice*)  
Gina A. Johnson (admitted *pro hac vice*)  
K&L GATES LLP  
70 W. Madison St, Suite 3300  
Chicago, IL 60602  
Tel.: 312.372.1121  
Fax: 312.827.8000  
Benjamin.weed@klgates.com  
Jim.shimota@klgates.com  
Philip.kunz@klgates.com  
Erik.halverson@klgates.com  
Gina.johnson@klgates.com

Peter E. Soskin (admitted *pro hac vice*)  
K&L GATES LLP  
4 Embarcadero Center, Suite 1200  
San Francisco, CA 94111  
Tel: (415) 882-8200  
Fax: (415) 882-8220  
peter.soskin@klgates.com

*Attorneys for Plaintiff Koss Corporation*

/s/ Katherine Vidal

Katherine Vidal (admitted *pro hac vice*)  
Eimeric Reig-Plessis (admitted *pro hac vice*)  
WINSTON & STRAWN LLP  
275 Middlefield Road  
Menlo Park, CA 94025

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.