

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FIRTIVA CORPORATION

v.

FUNIMATION GLOBAL GROUP, LLC

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Case No. 2:21-CV-0111-JRG-RSP

DOCKET CONTROL ORDER

In accordance with the scheduling conference held in this case, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

| AMENDED DATE | ORIGINAL DATE | |
|---------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | May 23, 2022 | *Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Gilstrap |
| | April 25, 2022 | * If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. ¹ |
| | April 19, 2022 | *Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne |
| | April 11, 2022 | *Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference. |

¹ The Parties are referred to the Court’s Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

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| | April 11, 2022 | *File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations |
| | April 4, 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, Shawn McRoberts, at shawn_mcroberts@txed.uscourts.gov. |
| | March 28, 2022 | File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury. |
| | March 28, 2022 | Serve Objections to Rebuttal Pretrial Disclosures |
| | March 21, 2022 | Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures |
| | March 7, 2022 | Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof |

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| | February 28, 2022 | *Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. ² Motions for Summary Judgment shall comply with Local Rule CV-56. |
| | February 14, 2022 | *File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court. |
| | February 14, 2022 | *File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. <u>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u> |
| | February 7, 2022 | Deadline to Complete Expert Discovery |
| | January 24, 2022 | Serve Disclosures for Rebuttal Expert Witnesses |
| | January 3, 2022 | Deadline to Complete Fact Discovery and File Motions to Compel Discovery |

² The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

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| | January 3, 2022 | Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof |
| | December 27, 2021 | Comply with P.R. 3-7 (Opinion of Counsel Defenses) |
| | December 3, 2021 | *Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne |
| | November 19, 2021 | *Comply with P.R. 4-5(d) (Joint Claim Construction Chart) |
| | November 12, 2021 | *Comply with P.R. 4-5(c) (Reply Claim Construction Brief) |
| | November 5, 2021 | Comply with P.R. 4-5(b) (Responsive Claim Construction Brief) |
| | October 22, 2021 | Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a). |
| November 5, 2021 | October 22, 2021 | Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline. |
| October 12, 2021 | October 8, 2021 | Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery) |
| | October 1, 2021 | File Response to Amended Pleadings |
| | September 17, 2021 | *File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents. |

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| September 24, 2021 | September 10, 2021 | Comply with P.R. 4-3 (Joint Claim Construction Statement) |
| September 3, 2021 | August 20, 2021 | Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions) |
| August 13, 2021 | July 30, 2021 | Comply with P.R. 4-1 (Exchange Proposed Claim Terms) |
| September 9, 2021 | August 26, 2021 | Comply with Standing Order Regarding Subject-Matter Eligibility Contentions ³ |
| September 9, 2021 | August 26, 2021 | Comply with P.R. 3-3 & 3-4 (Invalidity Contentions) |
| | August 5, 2021 | *File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures) The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part. |
| | July 29, 2021 | *File Proposed Docket Control Order and Proposed Discovery Order The Proposed Docket Control Order and Proposed Discovery Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part. |
| September 17, 2021 | July 22, 2021 | Join Additional Parties |
| | July 1, 2021 | Comply with P.R. 3-1 & 3-2 (Infringement Contentions) |

³ <http://www.txed.uscourts.gov/sites/default/files/judgeFiles/EDTX%20Standing%20Order%20Re%20Subject%20Matter%20Eligibility%20Contentions%20.pdf> [https://perma.cc/RQN2-YU5P]

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