

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

SMART MOBILE TECHNOLOGIES LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-00603-ADA

**JURY TRIAL DEMANDED**

**JOINT AGREED SCHEDULING ORDER**

The Court **ORDERS** that the following schedule will govern deadlines in this case *Smart Mobile Technologies LLC v. Apple Inc.* (6:21-cv-00603-ADA):

| Deadline                        | Item   |
|---------------------------------|--|
| January 12, 2022<br>(Wednesday) | 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.e. 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. |
| February 2, 2022<br>(Wednesday) | The Parties shall submit an agreed Scheduling Order. If the parties cannot agree, the parties shall submit a separate Joint Motion for entry of each Order briefly setting forth their respective positions on items where they cannot agree. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.   |
| April 6, 2022<br>(Wednesday)    | 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   |

<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.

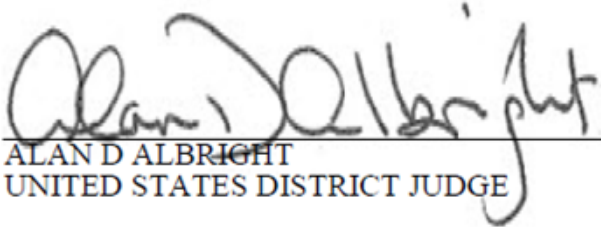
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|  | Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).   |
| April 20, 2022<br>(Wednesday)  | Parties exchange claim terms for construction.  |
| May 4, 2022<br>(Wednesday)   | Parties exchange proposed claim constructions.  |
| May 18, 2022<br>(Wednesday)  | 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>2</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. |
| May 25, 2022<br>(Wednesday)  | Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.  |
| June 8, 2022<br>(Wednesday)  | Defendant files Opening claim construction brief, including any arguments that any claim terms are not indefinite.  |
| July 6, 2022<br>(Wednesday)  | Plaintiff files Responsive claim construction brief.  |
| July 27, 2022<br>(Wednesday)   | Defendant files Reply claim construction brief.   |
| August 17, 2022<br>(Wednesday)   | Plaintiff files a Sur-Reply claim construction brief.   |
| August 19, 2022<br>(Friday)  | Parties submit optional technical tutorials to the Court and technical adviser (if appointed).  |
| August 22, 2022<br>(Monday)<br>(3 business days<br>after submission of<br>sur-reply) | Parties submit Joint Claim Construction Statement.<br><br>See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).  |
| August 31, 2022<br>(Wednesday) or as<br>set by the Court                             | <i>Markman</i> Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the <i>Markman</i> hearing approaches.   |
| September 1, 2022<br>(Thursday)  | Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).   |
| October 12, 2022<br>(Wednesday)  | Deadline to add parties.  |

<sup>2</sup> Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

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| October 26, 2022<br>(Wednesday)   | 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.  |
| November 29, 2022<br>(Tuesday)    | 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.  |
| December 21, 2022<br>(Wednesday)  | 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.)   |
| March 29, 2023<br>(Wednesday)     | Close of Fact Discovery. Fact discovery must be completed by this date. Any fact discovery requests must be propounded so that the responses are due by this date.  |
| April 19, 2023<br>(Wednesday)     | Parties with burden of proof to designate Expert Witnesses and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).   |
| May 26, 2023<br>(Wednesday)       | Parties shall designate Rebuttal Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).   |
| June 21, 2023<br>(Wednesday)      | Close of Expert Discovery. Expert discovery must be completed by this date.   |
| June 28, 2023<br>(Wednesday)      | 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. |
| July 19, 2023<br>(Wednesday)      | <i>Daubert</i> Motion deadline.   |
| July 19, 2023<br>(Wednesday)      | Dispositive Motion deadline.<br><br>The Court does not have a limit on the number of motions for summary judgment (MSJs); however, absent leave of Court, the cumulative page limit for Opening Briefs for all MSJs is 40 pages per side.   |
| August 9, 2023<br>(Wednesday)     | Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).   |
| August 30, 2023<br>(Wednesday)    | Serve objections to pretrial disclosures/rebuttal disclosures.  |
| September 13, 2023<br>(Wednesday) | Serve objections to rebuttal disclosures; file Motions <i>in limine</i> .   |

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| September 27, 2023<br>(Wednesday)                       | 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, 2023<br>(Wednesday)                          | 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> .<br><br>Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> . |
| 3 business days<br>before Final Pretrial<br>Conference. | File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .   |
| October 13, 2023  | Final Pretrial Conference.  |
| October 23, 2023  | Jury Selection/Trial.   |

ORDERED this 8th day of March, 2022.

  
 ALAN D ALBRIGHT  
 UNITED STATES DISTRICT JUDGE