

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TQ DELTA, LLC,  Plaintiff,  v.  2WIRE, INC., Defendant.	C.A. No. 13-cv-1835-RGA
TQ DELTA, LLC,  Plaintiff,  v.  ZHONE TECHNOLOGIES, INC.,  Defendant.	C.A. No. 13-cv-1836-RGA
TQ DELTA, LLC,  Plaintiff,  v.  ZYXEL COMMUNICATIONS, INC. and ZYXEL COMMUNICATIONS CORPORATION,  Defendants.	C.A. No. 13-cv-2013-RGA
TQ DELTA, LLC,  Plaintiff,  v.  ADTRAN, INC.,  Defendant.	C.A. No. 14-cv-954-RGA
ADTRAN, INC.,  Plaintiff,  v.  TQ DELTA, LLC,  Defendant.	C.A. No. 15-cv-121-RGA

**THIRD AND FINAL SCHEDULING ORDER**

This 10<sup>th</sup> day of April, 2017, the Court having conducted an initial Rule 16(b) scheduling conference pursuant to Local Rule 16.1(b), and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Rule 26(a)(1) Initial Disclosures. The parties have produced their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1).
2. Discovery Coordination.
  - a. The parties propose to coordinate discovery in the above-captioned cases where practicable. Although proposing to coordinate discovery in these four cases where practicable, the defendants expressly reserve, and do not waive, the right to separate trials on any and all issues to be resolved at trial.
  - b. Any submissions to the Court shall be filed in the specific case(s) to which they are believed in good faith to pertain.
  - c. For purposes of counting discovery requests and deposition hours, the related defendants named in each case count as a single defendant.
  - d. Except as modified herein, or by subsequent Court order, the Default Standard shall apply to each of the above-captioned cases.
3. Joinder of Other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before August 31, 2017.

4. Initial Discovery.<sup>1</sup>

The parties have served their Default Standard Paragraph 4.a., b., c., and d. disclosures.

5. Discovery.

a. Discovery Cut Off. All discovery in this case shall be initiated so that it will be completed on or before the following dates, which apply to both TQ Delta and the identified defendant:

<b>Defendant</b>	<b>Discovery Cutoff</b>
2Wire	Dec. 5, 2017
Zhone	Feb. 16, 2018
ZyXEL	April 4, 2018
ADTRAN	May 11, 2018

b. Document Production. Document production shall be substantially completed 60 days prior to the discovery cutoff above.

c. Requests for Admission. A maximum of 40 requests for admission are permitted for plaintiff as to each defendant. The defendants may collectively serve 30 joint requests for admission on plaintiff and each defendant may individually serve 20 requests for admission on plaintiff. Notwithstanding the foregoing, there is no limitation on the number of requests for admission that a document is authentic and/or a business record.

d. Interrogatories. A maximum of 25 interrogatories, including contention interrogatories, are permitted for plaintiff as to each defendant. The defendants may collectively serve 15 joint interrogatories on plaintiff. Each defendant may individually serve 20 additional defendant-specific interrogatories on plaintiff.

e. Depositions.

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<sup>1</sup> As these disclosures are “initial,” each party shall be permitted to timely supplement.

i. Limitation on Hours for Deposition Discovery. Plaintiff may take up to ~~Plaintiff's Proposal: 75; Defendants' Proposal: 49~~ hours of fact deposition of each defendant (i.e., no more than ~~Plaintiff's Proposal: 75; Defendants' Proposal: 49~~ hours of deposition time collectively for the defendant in each case and its past or current officers, employees, and agents) and up to 100 hours of third party depositions. Defendants may collectively take up to 100 hours of fact deposition of plaintiff and up to 100 hours of third party depositions ~~Defendants' Proposal~~ excluding named inventors on each asserted patent each of whom may be deposed without regard for the party and third party time limits.] ~~Defendants' Proposal~~: Defendants may collectively depose an inventor for up to <sup>10</sup> hours per patent family for which the witness is a named inventor, but no single defendant shall be permitted more than 7 hours of deposition time per inventor for each patent family.] Plaintiff may take a second deposition of an individual witness where the first deposition took place prior to the opening of general discovery; however, the total deposition time for the two depositions shall be limited to no more than 8 hours, subject to extension for good cause. For any depositions taken in a language other than English, each deposition hour will be counted as only one-half hour for purposes of any deposition hour limit. The foregoing limitations do not apply to the deposition of experts pursuant to Fed. R. Civ. P. 26(b)(4)(A). These time limitations may be amended by agreement of the parties or further order of the Court.

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ii. Location of Depositions. Any party or representative (officer, director, or managing agent) of a party filing a civil action in this district court must ordinarily be required, upon request, to submit to a deposition at a place designated within this district. Exceptions to this general rule may be made by order of the Court or by agreement of the parties. A defendant who becomes a counterclaimant, cross-claimant, or third-party plaintiff shall be

considered as having filed an action in this Court for the purpose of this provision. The parties agree that in these cases the depositions of party witnesses shall occur in the situs where the witness' business office is located<sup>2</sup> or at a mutually agreeable location.

iii. Expert Depositions. The parties agree to meet and confer with regard to time limitations for expert depositions by no later than 14 days after the conclusion of fact discovery.

f. The parties are not required to prepare privilege logs or otherwise identify documents withheld from production to the extent that they: (i) relate to activities undertaken in compliance with the duty to preserve information under Fed. R. Civ. P. 26(b)(3)(A) and (B) or similar requirements; or (ii) are withheld from production on the basis of privilege, work product, and/or any other exemption or immunity from production and are generated after the filing of the initial complaint in the lawsuit. All other withheld documents must be logged in compliance with Fed. R. Civ. P. 26(b)(5)(A), absent agreement of the parties or further order of the Court.

g. Discovery Matters and Disputes Relating to Protective Orders. The Court has assigned the parties to a Special Master for purposes of resolving discovery matters. D.I. 273. The parties will follow the procedures set out in this Court's orders with respect to the Special Master. *See* D.I. 275.

If a discovery-related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

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<sup>2</sup> If in the United States.

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