

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

**FINTIV, INC.,**

**Plaintiff,**

**v.**

**PAYPAL HOLDINGS, INC.,**

**Defendant.**

**Civil Action No. 6:22-cv-00288-ADA**

**SCHEDULING ORDER**

<b>OGP 4.1</b>	<b>Fintiv and PayPal Proposed Date</b>	<b>Item</b>
June 30, 2022		Case Management Conference
June 23, 2022	June 23, 2022	The plaintiff shall serve 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. The plaintiff shall also identify the 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.
July 21, 2022	July 21, 2022	Deadline for Motions to Transfer.
N/A	August 5, 2022	Fintiv's Response to PayPal's Motion to Dismiss
N/A	August 19, 2022	PayPal Reply in support of its Motion to Dismiss

<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.

<b>OGP 4.1</b>	<b>Fintiv and PayPal Proposed Date</b>	<b>Item</b>
August 18, 2022	August 25, 2022	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).
September 1, 2022	September 1, 2022	Parties exchange claim terms for construction.
September 15, 2022	September 15, 2022	Parties exchange proposed claim constructions.
September 22, 2022	September 22, 2022	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon in their opening brief 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.
September 29, 2022	September 29, 2022	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
October 6, 2022	October 6, 2022	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
October 27, 2022	October 27, 2022	Plaintiff files Responsive claim construction brief.
November 10, 2022	November 10, 2022	Defendant files Reply claim construction brief.
November 25, 2022	November 25, 2022	Plaintiff files Sur-Reply claim construction brief.

<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.

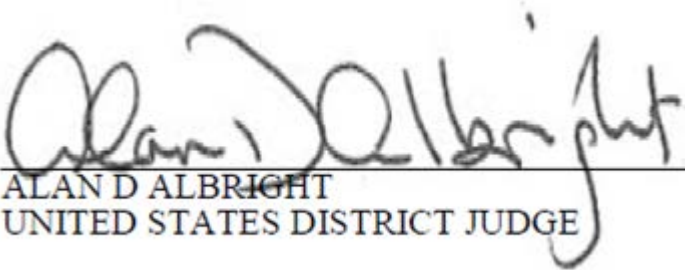
<b>OGP 4.1</b>	<b>Fintiv and PayPal Proposed Date</b>	<b>Item</b>
November 30, 2022	November 30, 2022	Parties submit Joint Claim Construction Statement  See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
December 1, 2022	December 1, 2022	Parties submit optional technical tutorials to the Court and technical advisor (if appointed). <sup>3</sup>
December 8, 2022	December 8, 2022	<i>Markman</i> hearing at 9:00 a.m. or 1:30 p.m.
December 9, 2022	December 9, 2022	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
January 19, 2023	January 19, 2023	Deadline to add parties.
February 2, 2023	February 2, 2023	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.
March 30, 2023	March 30, 2023	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims. (Note: This includes amendments in response to a 12(c) motion.)
June 8, 2023	June 8, 2023	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.
July 6, 2023	July 6, 2023	Close of Fact Discovery.
July 13, 2023	July 13, 2023	Opening Expert Reports. Opening expert reports shall be submitted by the party bearing the burden of proof e.g., Plaintiff will submit expert reports on issues of infringement and damages; defendant will submit expert reports on invalidity and/or inequitable conduct.
August 10, 2023	August 10, 2023	Rebuttal Expert Reports.

<sup>3</sup> The parties should contact the law clerk to request a Box link so that the party can directly upload the file to the Court's Box account.

<b>OGP 4.1</b>	<b>Fintiv and PayPal Proposed Date</b>	<b>Item</b>
August 31, 2023	August 31, 2023	Close of Expert Discovery.
September 7, 2023	September 7, 2023	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.
September 14, 2023	September 14, 2023	Dispositive motion deadline and <i>Daubert</i> motion deadline.
September 28, 2023	September 28, 2023	Serve Pretrial Disclosures (jury instructions, exhibit lists, witness lists, discovery and deposition designations).
October 12, 2023	October 12, 2023	Serve objections to pretrial disclosures/rebuttal disclosures.
October 19, 2023	October 19, 2023	Serve objections to rebuttal disclosures and file motions <i>in limine</i> .
October 26, 2023	October 26, 2023	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibit lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
November 2, 2023	November 2, 2023	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> .
November 13, 2023	November 13, 2023	File joint notice identifying remaining objections to pretrial disclosures and disputes on motion <i>in limine</i> .
November 16, 2023	November 16, 2023	Final Pretrial Conference.
December 7, 2023	November 30, 2023 <sup>4</sup>	Jury Selection/Trial

<sup>4</sup> Counsel for Fintiv has a scheduled trial on December 11, 2023 in Delaware.

SIGNED this 1st day of October, 2022

  
ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE