

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

POLARIS INNOVATIONS LIMITED, an
Ireland limited company,

Plaintiff,

v.

XILINX, INC., a Delaware corporation,

Defendant.

No. 1:22-cv-00174-RGA

SCHEDULING ORDER

This 31st day of May 2022, the Court having waived 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 shall make their initial disclosures on or before July 12, 2022
2. 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 October 17, 2023.
3. Discovery.
 - a. Discovery Cut Off. All discovery in this case shall be initiated so that it will be completed on or before December 18, 2023.

- b. Document Production. Document production shall be substantially complete by November 17, 2023.
- c. Requests for Admission. A maximum of 35 requests for admission are permitted for each side. Notwithstanding the foregoing, there shall be no limit to requests for admissions related to the authenticity of documents and “things.”
- d. Interrogatories. A maximum of 25 interrogatories, including contention interrogatories, are permitted for each side.
- e. Depositions.
- i. Limitation on Hours for Deposition Discovery. Each side is limited to a total of 70 hours of taking testimony by deposition upon oral examination.
- 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 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 to cooperate regarding the location of depositions, such that any party or representative, and any third party, shall be deposed at a location where the witness resides or at another mutually agreeable location, including by potential video conference.
- f. Discovery Matters and Disputes Relating to Protective Orders. Should counsel find they are unable to resolve a discovery matter or a dispute relating to a protective order, the parties involved in the discovery matter or protective order dispute shall contact the Court’s Case Manager to schedule an in-person conference/argument. Unless otherwise ordered,

by no later than seven business days prior to the conference/argument, any party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. By no later than five business days prior to the conference/argument, any party opposing the application for relief may file a letter, not to exceed three pages, outlining that party's opposition. A party should include with its letter a proposed order with a detailed issue-by-issue ruling such that, should the Court agree with the party on a particular issue, the Court could sign the proposed order as to that issue, and the opposing party would be able to understand what it needs to do, and by when, to comply with the Court's order. Any proposed order shall be e-mailed, in Word format, simultaneously with filing to rga_civil@ded.uscourts.gov.

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.

g. Miscellaneous Discovery Matters.

i. The parties may, if they choose, agree to a timetable for initial patent disclosures either as set forth in the Delaware Default Standard for Discovery or as agreed to by the parties, and the parties should set forth any such agreement in the scheduling order.

a. By July 12, 2022, Plaintiff shall specifically identify the accused products and the asserted patents and the claims the accused products allegedly infringe, and produce the file history for each asserted patent.

b. By August 11, 2022, Defendant shall produce to Plaintiff the core technical documents related to the accused products, including but not limited to operation manuals, product literature, schematics, and specifications.

c. By October 10, 2022, Plaintiff shall produce to Defendant an initial claim chart relating each accused product to the asserted claims each product allegedly infringes.

d. By December 9, 2022, Defendant shall produce to Plaintiff its initial invalidity contentions for each asserted claim, as well as the related asserted invalidating references (e.g., publications, manuals, and patents).

e. Final Contentions. Parties shall produce final infringement or invalidity contentions after the issuance of the Court's Claim Construction Order.

1. No later than 60 days after the issuance of the Court's Claim Construction Order, Plaintiff shall produce to Defendant its final claim charts relating each accused product to the asserted claims each product allegedly infringe.

2. No later than 60 days after Plaintiff produces its Final Infringement Contentions, Defendant shall produce to the Plaintiff its final invalidity contentions for each asserted claims, as well as the related invalidating references (e.g., publications, manuals and patents).

ii. Related and Further Proceedings

Polaris's Statement

Polaris previously asserted U.S. Patent 7,532,523 in the following cases:

- a. *Polaris Innovations Limited v. Etron Technology Inc.*, No. 3:17-cv-06547, filed on November 10, 2017 in the Northern District of California. This case was subsequently settled.
- b. *Polaris Innovations Limited v. Elite Semiconductor Memory*

Technology Inc., No. 3:17-07157, filed on December 15, 2017 in the Northern District of California. This case was subsequently settled. Polaris also previously asserted U.S. Patent 6,157,589 in *Polaris Innovations Limited v. Kingston Technology Co. Inc.*, No. 8:16-cv-00300, filed on February 19, 2016 in the Central District of California. Kingston filed a petition for *inter partes* review against the '589 patent on November 10, 2016, *Kingston Technology Co. Inc. v. Polaris Innovations Limited*, IPR2017-00238, for which the PTAB denied institution. The case was subsequently settled.

Xilinx's Statement

Xilinx presently states it may file one or more inter partes reviews related to the patents-in-suit by September 2022 and may move for a stay of this action.

iii. The parties, if they think it necessary, should set times in the schedule for reducing the number of asserted claims and asserted prior art used for anticipation and obviousness combinations. The usual points where the Court will consider such limits are before claim construction and after a ruling on claim construction.

iv. If one or more of the patents-in-suit have already been licensed or the subject of a settlement agreement, either (1) Plaintiff shall provide the licenses and/or settlement agreements to Defendant no later than the time of the initial Rule 16(b) scheduling conference, or (2) if Plaintiff requires a Court Order to make such disclosures, Plaintiff shall file any necessary proposed orders no later than twenty-four hours before the initial Rule 16(b) scheduling conference. Plaintiff shall represent in the scheduling order that it is complying or has complied

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