

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

_____)	
SHERRYWEAR, LLC,)	
)	
Plaintiff,)	Case No. 1:23-cv-11599-LTS
)	
v.)	Jury Trial Demanded
)	
NIKE, INC.,)	
)	
Defendant.)	
_____)	

SCHEDULING ORDER

SOROKIN, D.J.

This Scheduling Order is intended to provide a reasonable timetable for discovery and motion practice in order to help ensure a fair and just resolution of this matter without undue expense or delay.

Timetable for Discovery and Motion Practice

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and Local Rule 16.1(f), it is hereby ORDERED that:

1. Preliminary Disclosures.

- a. Initial Disclosures: Pursuant to Fed. R. Civ. P. 26(a)(1), the Parties shall complete initial disclosures no later than January 18, 2024.
- b. Automatic Patent-Related Disclosures: Pursuant to L.R. 16.6(d)(1), Patentee shall complete Automatic Patent-Related Disclosures no later than Thursday, January 25, 2024.
- c. Conference Concerning Preliminary Patent Disclosures: Pursuant to L.R. 16.6(d)(2), the Parties shall meet and confer concerning preliminary patent disclosures Thursday, February 15, 2024, or 21 days after Patentee’s Patent Disclosures, whichever is later.
- d. Accused Infringer’s Preliminary Disclosures and Productions: Pursuant to L.R. 16.6(d)(4), the Accused Infringer shall complete its Preliminary Disclosures and Productions Thursday, March 7, 2024, or 21 days after the Preliminary Patent Disclosures Conference, whichever is later.

2. Amendments to Pleadings. Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed after Monday, March 4, 2024.

3. Fact Discovery – Interim Deadlines.

All requests for production of documents, interrogatories and requests for admission *may* be served beginning Wednesday, December 13, 2023. (The date of the Parties' 26(f) Conference.)

- a. All requests for production of documents, interrogatories, and requests for admission *must* be served by the later of Monday July 15, 2024, or 15 days after entry of the Court's ruling on claim construction.
- b. Document production must be substantially completed by the later of Monday August 19, 2024, or 30 days after entry of the Court's ruling on claim construction.
- c. All depositions, other than expert depositions, must be completed by the later of Thursday September 19, 2024, or 60 days after entry of the Court's ruling on claim construction.
- d. **Final Fact Discovery Deadline:** All discovery other than expert discovery must be completed by the later of Thursday September 19, 2024, or 60 days after entry of the Court's ruling on claim construction.

4. Status Conference. A status conference may be held on a date to be determined by the Court. Any party who reasonably believes that a status conference will assist in the management or resolution of the case may request one from the Court upon reasonable notice to opposing counsel.

5. Expert Discovery.

- a. Trial experts for the party with the burden of proof must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by the later of Monday September 30, 2024, or 10 days after the close of fact discovery.
- b. Rebuttal trial experts must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by the later of Monday November 4, 2024 or 45 days after the close of fact discovery
- c. Pursuant to L.R. 16.6(c)(4), all trial experts must be deposed by the later of Wednesday December 18, 2024, or 90 days after the close of fact discovery.
- d. **Final Expert Discovery Deadline:** Expert discovery must be completed by the later of Wednesday December 18, 2024, or 90 days after the close of fact discovery.

6. Dispositive Motions.

- a. Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by the later of Monday February 17, 2025, or 60 days after the close of expert discovery with the opposition due thirty days thereafter. In the case of cross-motions the deadlines and page limits for the filings other than the Plaintiff's initial motion are set forth in the Session's Standing Order on Summary Judgment Motions unless specifically modified.

7. Initial Pretrial Conference. An initial pretrial conference may be held on a date to be determined by the Court. The parties shall prepare and submit a pretrial memorandum in accordance with Local Rule 16.5(d) five business days prior to the date of the conference.

8. Claim Construction Proceedings

- a. Exchange Proposed Claim Terms to be Construed: Pursuant to L.R. 16.6(e)(1)(A), the Parties shall simultaneously exchange a list of claim terms to be construed and their proposed constructions no later than Thursday, March 28, 2024.
- b. Conference on Proposed Claim Terms: Pursuant to L.R. 16.6(e)(1)(B), the Parties Patentee shall confer to see if agreement can be reached on the construction of claim terms and the number of claims to be considered complete no later than Thursday, April 4, 2024.
- c. Joint Statement: Pursuant to L.R. 16.6(e)(1)(D), the Parties shall file a joint statement of the number of claims and terms to be construed no later than Thursday, April 11, 2024. The joint statement shall include a joint claim-construction chart listing the claim terms in the order in which the parties would like the court to construe them and noting each Party's proposed construction of each term.
- d. Opening Claim Construction Briefs: Pursuant to L.R. 16.6(e)(2), the Parties shall simultaneously exchange and file opening claim construction briefs no later than Thursday, May 2, 2024.
- e. Expert Claim Construction Testimony: Pursuant to L.R. 16.6(e)(3), any expert whose testimony is relied on by a Party to support claim construction must be made available for deposition no later than Thursday, May 23, 2024.
- f. Responsive Briefs: Pursuant to L.R. 16.6(e)(4), the Parties shall simultaneously exchange and file responsive claim construction briefs no later than Thursday, June 13, 2024.

- g. Claim Construction Hearing: Pursuant to L.R. 16.6(c)(2), the Court shall Conduct a Claim Construction Hearing on or before Wednesday, September 4, 2024.

Procedural Provisions

1. **Extension of Deadlines.** Motions to extend or modify deadlines will be granted only for good cause shown. All motions to extend shall contain a brief statement of the reasons for the request; a summary of the discovery, if any, that remains to be taken; and a specific date when the requesting party expects to complete additional discovery, join other parties, amend the pleadings, or file a motion.
2. **Motions to Compel or Prevent Discovery.** Except for good cause shown, motions to compel discovery, motions for protective orders, motions to quash, motions to strike discovery responses, and similar motions must be filed **no later than seven days after the close of fact discovery or the close of expert discovery**, whichever deadline is relevant. If additional discovery is compelled by the Court after the relevant deadline has passed, the Court may enter such additional orders relating to discovery as may be appropriate.
3. **Status Conferences.** The Court has scheduled a status conference after (or close to) the close of fact discovery for case management purposes. Any party who reasonably believes that a status conference will assist in the management or resolution of the case may request one from the Court upon reasonable notice to opposing counsel.
4. **Additional Conferences.** Upon request of counsel, or at the Court's own initiative, additional case-management or status conferences may be scheduled.
5. **Early Resolution of Issues.** The Court recognizes that, in some cases, resolution of one or more preliminary issues may remove a significant impediment to settlement or otherwise expedite resolution of the case. Counsel are encouraged to identify any such issues and to make appropriate motions at an early stage in the litigation.
6. **Pretrial Conference.** Lead trial counsel are required to attend any pretrial conference.

IT IS HEREBY ORDERED:

/s/ Leo T. Sorokin
United States District Judge

By: /s/ Kellyann Belmont
DEPUTY CLERK