

- (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person's connection with the case, and a brief, fair summary of the substance of the information known by any such person;
- (e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered in this action or to indemnify or reimburse for payments made to satisfy the judgment;
- (f) any settlement agreements relevant to the subject matter of this action; and
- (g) any statement of any party to the litigation.

2. Disclosure of Expert Testimony. A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

- (a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and
- (b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. Additional Disclosures. Without awaiting a discovery request,¹ each party will make the following disclosures to every other party:

¹ The Court anticipates that this disclosure requirement will obviate the need for requests for production.

- (a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:

P.R. 3-1(g): If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.

P.R. 3-3(e): If a party claiming patent infringement exercises the provisions of P.R. 3-1(g), the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a P.R. 3-1(g) disclosure, supplemental “Invalidity Contentions” that amend only those claim elements identified as software limitations by the party claiming patent infringement.

- (b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and
- (c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. **Protective Orders.** The Court will enter the parties’ Agreed Protective Order.

5. **Discovery Limitations.** The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:

- (a) Definition of “Defendant”: For the purposes of this section, “Defendant” refers to a group of defendants separately accused of infringement. The defendant groups are the Honda defendants, the Hyundai defendants (Hyundai Motor America and Hyundai Motor Manufacturing Alabama, LLC), the Kia defendants (Kia Motors America and Kia Motors Manufacturing Georgia, Inc.), the Nissan defendants, the Toyota defendants, and the Volkswagen defendants (Volkswagen Group of America, Inc. and Volkswagen Group of America Chattanooga Operations, LLC).
- (b) Interrogatories: Plaintiff may serve 20 interrogatories common to all Defendants and 20 individual interrogatories on each Defendant. Defendants may collectively serve 20 interrogatories on plaintiff and each Defendant may individually serve 20 interrogatories on plaintiff.
- (c) Requests for Admission: Plaintiff may serve 20 requests for admission common to all Defendants and 20 individual requests for admission on each Defendant. Defendants may collectively serve 20 requests for admission on plaintiff and each Defendant may individually serve 20 requests for admission on plaintiff. In addition, the parties will be permitted to serve unlimited requests for admissions for authentication of documents and things and/or whether a document qualifies as a printed publication under 35 U.S.C. § 102.
- (d) Party Depositions: Plaintiff may take up to 50 total hours of deposition testimony (inclusive of both 30(b)(1) and 30(b)(6) depositions) of each Defendant. The Defendants collectively may take up to 21 hours of deposition testimony of plaintiff (inclusive of both 30(b)(1) and 30(b)(6) depositions). Depositions of experts, third parties, or the named inventor do not count against these limits.

- (e) Inventor Depositions: The Defendants as a group will be limited to 10 deposition hours of the named inventor in his individual capacity (excluding deposition time as a 30(b)(6) witness, if any). Fact deposition testimony of the inventor is exclusive of any time the inventor spends testifying as either a designated party witness or expert witness.
- (f) Expert Depositions: Plaintiff is limited to four testifying expert witnesses. Each Defendant is limited to four testifying expert witnesses or two individual testifying expert witnesses plus two testifying expert witnesses common to other Defendants. Plaintiff may depose each of Defendant's experts for up to seven hours, except that plaintiff may depose an expert witness common to more than one Defendant for up to 14 hours. Defendants as a group may collectively depose each of Plaintiff's validity experts for up to 7 hours per patent if different experts opine on each asserted patent, or 10 hours total if one expert covers both asserted patents with respect to a given basis for invalidity (e.g., 102/103 or 112). Each Defendant may depose each of Plaintiff's infringement experts for up to 7 hours per patent if different experts opine on each asserted patent, or 10 hours total if a single expert opines on both asserted patents. Each Defendant may depose each of Plaintiff's damages experts for up to 7 hours.
- (g) Any party may later move to modify these limitations for good cause or by agreement.
- (h) The parties agree that the provisions of Fed. R. Civ. P. 26(b)(1) as amended effective December 1, 2015 regarding proportionality of discovery will apply to this case, namely, that the scope of discovery will be proportional to the needs of the case, considering the

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