

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

AGIS SOFTWARE DEVELOPMENT  
LLC,

*Plaintiff,*

v.

T-MOBILE USA, INC. and T-MOBILE  
US, INC.,

*Defendants.*

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Case No. 2:21-cv-00072-JRG-RSP  
LEAD CASE

**FOURTH AMENDED DOCKET CONTROL ORDER**

Before the Court is the Joint Motion to Amend Docket Control Order filed by Plaintiff AGIS Software Development, LLC and Defendants T-Mobile USA, Inc., T-Mobile US, Inc., Lyft, Inc., Uber Technologies, Inc., d/b/a Uber, and WhatsApp, Inc. (collectively, the “Parties”). **Dkt. No. 115.** The parties’ motion seeks a one-week extension of the deadline to comply with P.R. 4-3.

After due consideration, the Court **GRANTS** the Parties’ Motion. It is therefore **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

PRIOR DATE	NEW DATE	EVENT
March 7, 2022		*Jury Selection – 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap
February 7, 2022		*If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. <sup>1</sup>

<sup>1</sup> The Parties are referred to the Court’s Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

PRIOR DATE	NEW DATE	EVENT
February 2, 2022		*Pretrial Conference – 9:00 a.m. in <b>Marshall, Texas</b> before Judge Roy Payne
January 24, 2022		*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
January 24, 2022		*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
January 19, 2022		Serve Objections to Rebuttal Pretrial Disclosures
January 18, 2022		*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.
January 14, 2022		File Motions <i>in Limine</i>  The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
January 10, 2022		Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
December 30, 2021		Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof

PRIOR DATE	NEW DATE	EVENT
December 23, 2021		*Response to Dispositive Motions (including <i>Daubert</i> Motions).  Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. <sup>2</sup> Motions for Summary Judgment shall comply with Local Rule CV-56.
December 9, 2021		*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)  No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court
December 9, 2021		*File Dispositive Motions  No dispositive motion may be filed after this date without leave of the Court.  Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
December 3, 2021		Deadline to Complete Expert Discovery
November 19, 2021		Serve Disclosures for Rebuttal Expert Witnesses
November 16, 2021		Comply with P.R. 3-7 (Opinion of Counsel Defenses)

<sup>2</sup> The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

PRIOR DATE	NEW DATE	EVENT
October 29, 2021		Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
October 26, 2021		*Claim Construction Hearing – 9:00 a.m. in <b>Marshall, Texas</b> before Judge Roy Payne
October 22, 2021		Deadline to Complete Fact Discovery and File Motions to Compel Discovery
October 19, 2021		*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
October 12, 2021		*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
September 28, 2021		Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
September 14, 2021		Deadline to Substantially Complete Document Production and Exchange Privilege Logs  Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
September 7, 2021		Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)  Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).
August 24, 2021		Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
August 24, 2021		File Response to Amended Pleadings
August 10, 2021		*File Amended Pleadings  It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.

PRIOR DATE	NEW DATE	EVENT
August 10, 2021	August 17, 2021	Comply with P.R. 4-3 (Joint Claim Construction Statement)

**(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.**

### ADDITIONAL REQUIREMENTS

**Mediation:** While certain cases may benefit from mediation, such may not be appropriate for every case. The Court finds that the Parties are best suited to evaluate whether mediation will benefit the case after the issuance of the Court's claim construction order. Accordingly, the Court **ORDERS** the Parties to file a Joint Notice indicating whether the case should be referred for mediation **within fourteen days of the issuance of the Court's claim construction order**. As a part of such Joint Notice, the Parties should indicate whether they have a mutually agreeable mediator for the Court to consider. If the Parties disagree about whether mediation is appropriate, the Parties should set forth a brief statement of their competing positions in the Joint Notice.

**Summary Judgment Motions, Motions to Strike Expert Testimony, and Daubert Motions:** For each motion, the moving party shall provide the Court with two (2) hard copies of the completed briefing (opening motion, response, reply, and if applicable, sur-reply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. These copies shall be delivered to the Court within three (3) business days after briefing has completed. For expert-related motions, complete digital copies of the relevant expert report(s) and accompanying exhibits shall be submitted on a single flash drive to the Court. Complete digital copies of the expert report(s) shall be delivered to the Court no later than the dispositive motion deadline.

**Indefiniteness:** In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their Markman briefing, subject to the local rules' normal page limits.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

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