

**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

DOCKET CONTROL ORDER

Before the Court is the Unopposed Motion for Entry of Proposed Scheduling 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. **Dkt. No. 71**. The Court **GRANTS** the Motion. In accordance with the granted Motion, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

DATE	EVENT
March 7, 2022	*Jury Selection – 9:00 a.m. in Marshall, Texas 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. ¹
February 2, 2022	*Pretrial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy Payne

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

January 24, 2022	<p>*Notify Court of Agreements Reached During Meet and Confer</p> <p>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.</p>
January 24, 2022	<p>*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</p>
January 18, 2022	<p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>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.</p>
January 14, 2022	<p>File Motions <i>in Limine</i></p> <p>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.</p>
January 19, 2022	<p>Serve Objections to Rebuttal Pretrial Disclosures</p>
January 10, 2022	<p>Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures</p>
December 30, 2021	<p>Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof</p>
December 23, 2021	<p>*Response to Dispositive Motions (including <i>Daubert</i> Motions).</p> <p>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.² Motions for Summary Judgment shall comply with Local Rule CV-56.</p>

² 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.”

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. <u>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. 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
October 22, 2021	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
October 29, 2021	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
November 16, 2021	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
October 26, 2021	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
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 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).

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.

September 14, 2021	<p>Deadline to Substantially Complete Document Production and Exchange Privilege Logs</p> <p>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.</p>
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	<p>*File Amended Pleadings</p> <p>It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.</p>
August 3, 2021	Comply with P.R. 4-3 (Joint Claim Construction Statement)
July 13, 2021	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
June 22, 2021	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
July 14, 2021	Comply with Standing Order Regarding Subject-Matter Eligibility Contentions ³
July 14, 2021	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)
June 2, 2021	<p>*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)</p> <p>The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.</p>
May 26, 2021	<p>*File Proposed Docket Control Order and Proposed Discovery Order</p> <p>The Proposed Docket Control Order and Proposed Discovery Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part.</p>

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<http://www.txed.uscourts.gov/sites/default/files/judgeFiles/EDTX%20Standing%20Order%20Re%20Subject%20Matter%20Eligibility%20Contentions%20.pdf> [https://perma.cc/RQN2- YU5P]

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May 19, 2021	Join Additional Parties
May 19, 2021	Comply with P.R. 3-1 & 3-2 (Infringement Contentions)

(*) 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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