

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

AGIS SOFTWARE DEVELOPMENT LLC, <i>Plaintiff,</i> v. SAMSUNG ELECTRONICS CO., LTD., ET AL., <i>Defendants.</i>	§ § § § § § § § § § § § §	Civil Action No. 2:22-cv-00263-JRG-RSP
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FIRST AMENDED DOCKET CONTROL ORDER

In accordance with joint motion to amend the Docket Control Order, Dkt. No. 65, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

Original Dates	Amended Dates	Event
March 4, 2024		*Jury Selection – 9:00 a.m. in Marshall, Texas
7 days before Jury Selection		*Defendant to disclose final invalidity theories, final prior art references/combinations, and final equitable defenses. ¹
10 days before Jury Selection		*Plaintiff to disclose final election of Asserted Claims. ²

¹ The proposed DCO shall include this specific deadline. The deadline shall read, “7 days before Jury Selection,” and shall not include a specific date.

² Given the Court’s past experiences with litigants dropping claims and defenses during or on the eve of trial, the Court is of the opinion that these additional deadlines are necessary. The proposed DCO shall include this specific deadline. The deadline shall read, “10 days before Jury Selection,” and shall not include a specific date.

Original Dates	Amended Dates	Event
February 5, 2024		*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. ³
January 29, 2024		*Pretrial Conference – 1:30 p.m. in Marshall, Texas before Judge Roy Payne
January 22, 2024		*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 22, 2024		*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 16, 2024		*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, Shawn McRoberts, at shawn_mcroberts@txed.uscourts.gov .
January 11, 2024		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.

³ The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

Original Dates	Amended Dates	Event
January 11, 2024		Serve Objections to Rebuttal Pretrial Disclosures
January 5, 2024		Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
December 18, 2023		Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
December 14, 2023		*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. ⁴ Motions for Summary Judgment shall comply with Local Rule CV-56.
November 30, 2023		*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.
November 30, 2023		*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>

⁴ 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.

Original Dates	Amended Dates	Event
November 20, 2023		Deadline to Complete Expert Discovery
November 8, 2023		Serve Disclosures for Rebuttal Expert Witnesses
October 12, 2023		Deadline to Complete Fact Discovery and File Motions to Compel Discovery
October 18, 2023		Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
October 4, 2023		<p>Final Pre-Trial Election of Asserted Claims and Prior Art</p> <p>Plaintiff shall serve a Final Pre-Trial Election of Asserted Claims, which shall identify no more than 5 claims per asserted patent from among the previously identified claims and no more than 16 claims in total.</p> <p>Not later than 14 days after Plaintiff's election, Defendants shall elect no more than 6 prior art references against each patent from among the previously identified references and no more than 20 references in total.</p>
September 22, 2023		Comply with P.R. 3-7 (Opinion of Counsel Defenses)
September 1, 2023		*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Roy Payne
August 18, 2023		*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
August 11, 2023		*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
August 4, 2023		Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)

Original Dates	Amended Dates	Event
July 21, 2023		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).
July 21, 2023		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.
July 7, 2023	July 14, 2023	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
June 30, 2023		File Response to Amended Pleadings
June 16, 2023		*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.
June 9, 2023	June 16, 2023	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

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