

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

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,  
Plaintiff,

v.

HTC CORPORATION, et al.,  
Defendants.

**Civil Action No. 6:13-cv-507**

Consolidated Lead Case

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,  
Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,  
et al.,  
Defendants.

**Civil Action No. 6:14-cv-759**

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,  
Plaintiff,

v.

LG ELECTRONICS, INC., et al.,  
Defendants.

**Civil Action No. 6:14-cv-982**

Consolidated Lead Case

**JOINT MOTION TO AMEND DOCKET CONTROL ORDERS  
AND FOR NEW TRIAL SETTINGS**

Plaintiff Cellular Communications Equipment LLC and Defendants to each of the above-captioned actions (collectively, “the Parties”) have conferred regarding case deadlines and trial settings and, subject to the Court’s approval, agree to the schedule modifications set forth herein.

**Consolidated Case No. 6:13-cv-507**

Near the outset of this consolidated Case No. 6:13-cv-507 (the “507 cases”), Chief Judge Davis held a “special case management conference” and solicited scheduling proposals from the Parties including “[u]nique approaches leading to the early resolution of the case.” Dkt. No. 68. Accordingly, the Docket Control Order (Dkt No. 123) in the 507 cases established an unconventional schedule, intended to facilitate early resolution. Among other things, the Docket Control Order included multiple *Markman* hearings, a delay of fact discovery until forty-five days after the Court issued its first *Markman* Order, and a postponed deadline for “full document production.”

Because the opening (but not the close) of fact discovery was contingent on issuance of a *Markman* order, the discovery period in this multi-patent, multi-defendant case has turned out to be shorter than expected. Although originally set for November 11, 2014, the initial *Markman* hearing was rescheduled to December 15, and the Court issued its initial *Markman* Order on March 9, 2015 (Dkt No. 363). Accordingly, fact discovery opened on April 23, 2015, and “full document production” was not due until June 8, 2015. The discovery deadline is October 23, 2015, resulting in a brief, six-month discovery window.

Additionally, as claim construction proceedings unfolded, multiple Defendants filed petitions for *inter partes* review (as will be detailed in relevant part in a joint motion to sever and stay relative to the ’174 patent that the Parties anticipate filing this week). In light of the

uncertainty surrounding the status of those petitions, the Parties met and conferred to agree on a framework for proceeding without contested motion practice concerning a litigation stay.

To this end, the Parties agreed that should the PTAB institute *inter partes* review of all asserted claims of the '820 patent based upon the petition filed by Apple Inc.,<sup>1</sup> they would jointly move to stay the 507 cases entirely. Conversely, should the PTAB decline to institute *inter partes* review of all asserted claims of the '820 patent based upon Apple's petition, the stipulated stay would be limited to the '174 patent, and the parties would go forward on the '820 and '8923 patents.<sup>2</sup>

In light of the possibility that the 507 cases would be stayed entirely, the Parties agreed to refrain from substantive discovery until after the determinative decision from the PTAB. This agreement was conditioned on the Parties' agreement to seek extension of all necessary deadlines should litigation proceed, such that they have an adequate opportunity to complete discovery and prepare their case(s).

On July 21, 2015, the PTAB declined to institute Apple's requested *inter partes* review of '820 patent, meaning the Parties agree to move forward with the 507 cases as to all asserted claims of the '820 and '8923 patents. The Parties thus jointly file this motion to amend deadlines, consistent with their agreement and mutual reliance thereon.

Further supportive of the requested schedule adjustments is the fact that there are several pending motions, the result of which will help shape these proceedings. For instance,

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<sup>1</sup> *Apple Inc. v. Cellular Communications Equipment LLC*, No. IPR2015-00578 (P.T.A.B. filed Jan. 20, 2015). The PTAB had previously (on January 28, 2015) declined to institute *inter partes* review of the '820 patent in *NEC Corporation of America, et al. v. Cellular Communications Equipment LLC*, No. IPR2014-01136 (P.T.A.B. filed Jul. 10, 2014).

<sup>2</sup> The '174 patent is subject to pending *inter partes* review in *Amazon.com, Inc., et al. v. Cellular Communications Equipment LLC*, No. IPR2014-01134 (P.T.A.B. filed Jul. 10, 2014). This review is set for final hearing on August 26, 2015 and a decision from the PTAB is expected by January 15, 2016.

Defendants responded to Plaintiff's original complaints by moving to dismiss for failure to state claims for indirect infringement and willfulness. The Court ruled that the complaints sufficiently pleaded induced infringement and willfulness, but required Plaintiff to re-plead its contributory infringement case. Plaintiff did so, and Defendants filed a consolidated motion to dismiss Plaintiff's contributory infringement allegations. The motion awaits a ruling; thus, Defendants have yet to file answers or counterclaims.

Moreover, Plaintiff has moved to amend its infringement contentions. Defendants (save for AT&T and Dell) opposed. Plaintiff also moved to strike supplements/amendments to certain Defendants' invalidity contentions. The outcome of these motions bears on fact discovery and expert reports.

According to the agreed, proposed schedule below (also included as Exhibit A hereto), the Discovery Deadline would move from October 23, 2015 to February 18, 2016 in anticipation of a new trial setting in July 2016. The Parties submit that moving the trial from its April 11, 2016 date set by Judge Davis is appropriate and necessary given the scope of these proceedings, the late date upon which discovery formally opened, and their mutual efforts to conduct this case efficiently in light of requested *inter partes* reviews.

Event	Current Deadline	New Deadline
Parties to File <b>Motion to Seal Trial Exhibits</b> , if they wish to seal any highly confidential exhibits. <b>EXHIBITS: See order below regarding exhibits.</b>	3 DAYS after conclusion of Trial	3 DAYS after conclusion of Trial
<b>9:00 a.m. JURY TRIAL as reached at the United States District Court, 211 W. Ferguson, 3<sup>rd</sup> Floor, Courtroom of Judge Leonard Davis, Tyler, Texas.</b>	April 11, 2016	To be set by Court
<b>9:00 a.m. JURY SELECTION at the United States District Court, 211 W. Ferguson, 3<sup>rd</sup></b>	April 4, 2016	To be set by Court. The parties propose

<b>Floor, Courtroom of Judge Leonard Davis, Tyler, Texas.</b>		mid-July <sup>3</sup>
<b>9:00 a.m. PRETRIAL CONFERENCE at the United States District Court, 211 W. Ferguson, 3<sup>rd</sup> Floor, Courtroom of Judge Leonard Davis, Tyler, Texas.</b> All pending motions will be heard.	March 24, 2016	To be set by Court
Parties to file estimates of the amount of time they request at jury selection and trial for (1) voir dire, (2) opening statements, (3) direct and cross examinations, and (4) closing arguments.	March 22, 2016	July 1, 2016
Responses to Motions in Limine due.	March 17, 2016	June 27, 2016
<b>Motions in Limine due.</b> The parties are directed to confer and advise the Court on or before 3:00 o'clock p.m. the day before the pre-trial conference which paragraphs are agreed to and those that need to be addressed at the pre-trial conference.	March 14, 2016	June 23, 2016
<b>Joint Pretrial Order, Joint Proposed Jury Instructions with citation to authority and Form of the Verdict for jury trials due.</b> Proposed Findings of Fact and Conclusions of Law with citation to authority for issues tried to the bench.	March 9, 2016	June 20, 2016
<b>Pretrial Objections due.</b>	March 4, 2016	June 16, 2016
<b>Objections to Rebuttal Deposition Testimony due.</b>	February 28, 2016	June 13, 2016
<b>Rebuttal Designations and Objections to Deposition Testimony due; Parties to Identify Rebuttal Trial Witnesses.</b> Cross examination line and page numbers to be included. In video depositions, each party is responsible for preparation of the final edited video in accordance	February 18, 2016	June 6, 2016

<sup>3</sup> Apple notes that it is a party to a separate litigation—*Rembrandt Patent Innovations, LLC v. Apple Inc.*, No. C 14-05094 WHA (N.D. Cal.)—involving the same lead trial counsel. Trial in that case has been set to commence July 11, 2016. To the extent possible, Plaintiff agrees to cooperate with Apple to schedule its trial in this matter to avoid that conflict.

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