

I. INTRODUCTION AND BACKGROUND

Plaintiff Demaray LLC respectfully brings this motion to amend the case schedule to allow additional time to complete significant remaining fact discovery and prevent Defendants from continuing to try to “run out the clock.” The four major firms and local counsel representing Defendants Intel and Samsung are working together under the veil of a “common interest privilege” and are obstructing timely access to the facts that would allow a fair trial. Fact discovery is currently set to close on October 26, 2022. Demaray requests that the Court extend this period at least six weeks so Demaray can obtain the information it long has been seeking to prepare its case.

Defendants have delayed at every turn to avoid providing important discovery. As just one example, Samsung has thus far produced two financial documents. Defendants also have not committed to *any* deposition dates, creating a situation when depositions will need to be taken almost continuously through the end of discovery. When Demaray has sought to resolve and avoid disputes in recent months, Defendants are nearly always “unavailable” to confer regarding important issues until several days—even weeks—after the Court's deadline for such meetings. When those calls occur, Defendants are repeatedly “unable” to meaningfully address their failure to provide basic discovery or provide solid assurances on when information will be produced. Even when briefing disputed issues, Defendants wait to provide their portions until the eleventh hour or (again) several days thereafter. The combined effect of these delays is that the current discovery deadline is prejudicial to Demaray.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] But rather than work efficiently through discovery, Defendants have leveraged the complexity of the case, the size of their institutional clients and their litigation teams, and nearly every delay tactic in the book, to run out the clock. To help remedy these issues, Demaray respectfully requests that the Court extend the close of fact discovery to December 19, and

briefly extend other related deadlines as set forth in Exhibit A to the Weber Declaration attached hereto ("Decl."). All other deadlines, including the May 8, 2023 trial date, can remain unchanged. While Demaray has endeavored to find other alternatives—such as a new trial date—Defendants claim they are unavailable for trial until mid-October 2023, during a period in which Demaray’s trial team have multiple trial conflicts. Accordingly, Demaray requests the next best available option that maintains the current trial date and will hopefully allow Demaray to access some of the most relevant documents and information before the close of discovery.

II. APPLICABLE LEGAL STANDARD

Scheduling orders may be modified “for good cause and with the judge's consent.” Fed. R. Civ. P. 16(b)(4).¹ Courts have “exceedingly wide” discretion regarding scheduling. *Versai Mgmt. Corp. v. Clarendon Am. Ins. Co.*, 597 F.3d 729, 740 (5th Cir. 2010).

III. GOOD CAUSE EXISTS TO AMEND THE CASE SCHEDULE

Defendants’ near-categorical delays and obstruction continue to prejudice Demaray’s efforts to prepare for trial, necessitating a scheduling adjustment.

A. **Defendants’ Delay in Providing Discovery Warrants an Extension.**

A few examples of the pattern of conduct warranting a brief discovery extension are below.

Defendants’ failure to identify responsive chambers. As set forth in the two discovery disputes currently pending before the Court, Defendants have repeatedly failed to provide timely and accurate disclosures of the chambers [REDACTED]

[REDACTED] Recent discovery revealed that Defendants should have identified, for example, [REDACTED] chambers among these products, but Defendants withheld that information.

While Defendants purported to identify the [REDACTED]

¹ To show good cause, the moving party must show “that the deadlines cannot reasonably be met despite the diligence of the party needing the extension,” and four factors inform this inquiry: “(1) the party's explanation; (2) the importance of the requested relief; (3) potential prejudice in granting the relief; and (4) the availability of a continuance to cure such prejudice.” *Escalante v. Creekside Logistics, LLC*, No. 5:18-CV-116-OLG, 2019 WL 9135758, at *2 (W.D. Tex. Feb. 12, 2019).

[REDACTED] to include additional materials, on July 13, Demaray asked Samsung [REDACTED]
[REDACTED] Samsung
never answered these questions and so Demaray sent another letter that repeated these questions
on August 11. The next day, Samsung responded that [REDACTED] but
would not answer questions about [REDACTED] despite Demaray's repeated follow up. *Id.*
¶ 8.

Samsung has used this [REDACTED] to delay providing the requested discovery
for months (until mid-August), and it still has not identified the [REDACTED]

[REDACTED] If Samsung had revealed this massive delay (of which only it was aware) at the time
of the last scheduling extension, Demaray would never have agreed to the current schedule.

Intel's delayed witness-related information. In an effort to aid and narrow Intel's
search for certain "persons most knowledgeable" so that Demaray could notice depositions and
seek ESI, on July 13, 2022, Demaray identified categories for which Intel had still not identified
persons most knowledgeable in response to an interrogatory on the subject. Intel agreed to
identify those persons the following week, but did not. On July 27, Demaray conferred with
Intel and it (again) agreed to respond to two interrogatories based upon guidance provided—this
time, by August 5. Intel did not supplement until August 9, but even then its responses [REDACTED]
[REDACTED] Demaray
was thus forced to move to compel and served its portion of a discovery submission on August
14. Decl. ¶¶ 9-12.

Intel's first portion of the discovery submission on this topic [REDACTED]
[REDACTED]

[REDACTED]. But by Intel's third round of edits, on August 24, Intel revised its submission to assert
[REDACTED]

[REDACTED] After more edits and another interrogatory supplement, on September 2, Intel

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