



**[PROPOSED] FIRST AMENDED JOINT SCHEDULING ORDER**

Pursuant to the Court’s rulings during the June 23, 2021 Discovery Hearing, the Court hereby sets the following case deadlines<sup>1</sup>:

<b><u>Date</u></b>	<b><u>Event</u></b>
May 13, 2021	Plaintiff shall serve preliminary <sup>2</sup> infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the priority date (i.e. the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
May 27, 2021	The Parties shall submit an agreed Scheduling Order. If the parties cannot agree, the parties shall submit a separate Joint Motion for entry of each Order briefly setting forth their respective positions on items where they cannot agree. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
July 8, 2021	Defendant shall serve preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).
July 15, 2021	Parties exchange claim terms for construction.

<sup>1</sup> Defendants Volkswagen Group of America, Inc. (“VW”) and Hyundai Motor America (“HMA”) believe this order should not be entered at this time, and this litigation should not go forward in this Court, unless and until their respective motions to dismiss for improper venue are denied. VW and HMA join this proposed schedule only because they brought these concerns to the Court, and the Court stated on May 17, 2021 via email: “The Court will not stay the cases pending rulings on the motions to dismiss/transfer. Pursuant to the Court’s Standing Order Regarding Motion(s) for Inter-District Transfer, the Court will rule on these motions before Markman hearing.”

<sup>2</sup> The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served, and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

<u>Date</u>	<u>Event</u>
July 29, 2021	Parties exchange proposed claim constructions.
August 4, 2021	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. <sup>3</sup> With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
August 6, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
August 12, 2021	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
September 2, 2021	Plaintiff files Responsive claim construction brief.
September 13, 2021	Defendant files Reply claim construction brief
September 24, 2021	Plaintiff files a Sur-Reply claim construction brief.
September 24, 2021	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). <sup>4</sup>
September 28, 2021	Parties submit Joint Claim Construction Statement.  <i>See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).</i>
October 4, 2021	Date of <i>Markman</i> hearing. 9:30 a.m. – 11:00 a.m.
October 5, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a)
November 15, 2021	Deadline to add parties.
November 29, 2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions.  This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.

<sup>3</sup> Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

<sup>4</sup> The parties should contact the law clerk to request a Box link so that the party can directly upload the file to the Court's Box account.

<u>Date</u>	<u>Event</u>
January 24, 2022	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
April 4, 2022	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
May 2, 2022	Close of Fact Discovery.
May 9, 2022	Opening Expert Reports.
June 6, 2022	Rebuttal Expert Reports.
June 27, 2022	Close of Expert Discovery.
July 5, 2022	Deadline for the second of two meet and confer to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
July 11, 2022	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
July 25, 2022	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
August 8, 2022	Serve objections to pretrial disclosures/rebuttal disclosures.
August 15, 2022	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
August 22, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
August 29, 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, Kristie Davis at <a href="mailto:kmdaviscsr@yahoo.com">kmdaviscsr@yahoo.com</a> Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .

<u>Date</u>	<u>Event</u>
September 7, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
September 12, 2022	Final Pretrial Conference. The Court expects to set this date at the conclusion of the <i>Markman</i> Hearing.
October 3, 2022 <sup>5</sup>	Jury Selection/Trial. The Court expects to set these dates at the conclusion of the <i>Markman</i> Hearing.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2021

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ALAN D. ALBRIGHT  
UNITED STATES DISTRICT JUDGE

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<sup>5</sup> If the actual trial date materially differs from the Court's default schedule, the Court will consider reasonable amendments to the case schedule post-*Markman* that are consistent with the Court's default deadlines in light of the actual trial date.

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