

ATTACHMENT A:

*COMPARISON
OF PROPOSED
SCHEDULING ORDERS*

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Court's Proposed Deadline	Plaintiff's Proposed Deadline	Defendants' Proposed Deadline	DESCRIPTION
7 days before CMC (June 23, 2021)	July 2, 2021		Plaintiff serves preliminary ¹ 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 earliest 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.
7 weeks after CMC (August 18, 2021)	August 27, 2021		Defendant serves 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).
9 weeks after CMC (September 1, 2021)		September 15, 2021	Parties exchange claim terms for construction.
11 weeks after CMC (September 15, 2021)		October 6, 2021	Parties exchange proposed claim constructions.

¹ 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.

Court's Proposed Deadline	Plaintiff's Proposed Deadline	Defendants' Proposed Deadline	DESCRIPTION
12 weeks after CMC (September 22, 2021)		October 20, 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. ² 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.
13 weeks after CMC (September 29, 2021)		November 3, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
14 weeks after CMC (October 6, 2021)	October 4, 2021	November 17, 2021	Defendant files Opening claim construction brief, including any arguments that any claim terms are not indefinite.
17 weeks after CMC (October 27, 2021)	October 25, 2021	December 15, 2021	Plaintiff files Responsive claim construction brief.
19 weeks after CMC (November 10, 2021)	November 8, 2021	January 12, 2022	Defendant files Reply claim construction brief
21 weeks after CMC (November 24, 2021)	November 19, 2021	February 9, 2022	Plaintiff files a Sur-Reply claim construction brief
3 business days after submission of sur-reply (November 30, 2021)	November 23, 2021	February 16, 2022	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>

² Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

Court's Proposed Deadline	Plaintiff's Proposed Deadline	Defendants' Proposed Deadline	DESCRIPTION
22 weeks after CMC (but at least 10 days before <i>Markman</i> hearing) (November 26, 2021)	November 24, 2021	February 18, 2022	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). ³
23 weeks after CMC (December 8, 2021)		February 25, 2022	<i>Markman</i> Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the <i>Markman</i> hearing approaches.
1 business day after <i>Markman</i> hearing (December 9, 2021)		February 28, 2022	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
6 weeks after <i>Markman</i> hearing (January 19, 2022)		April 8, 2022	Deadline to add parties.
8 weeks after <i>Markman</i> hearing (February 2, 2022)		May 6, 2022	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 reasonably amend if new information is identified after initial contentions.
16 weeks after <i>Markman</i> hearing (March 30, 2022)		June 17, 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.)
26 weeks after <i>Markman</i> hearing (June 8, 2022)		August 26, 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.
30 weeks after <i>Markman</i> hearing (July 6, 2022)		September 23, 2022	Close of Fact Discovery.

³ 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.

Court's Proposed Deadline	Plaintiff's Proposed Deadline	Defendants' Proposed Deadline	DESCRIPTION
31 weeks after <i>Markman</i> hearing (July 13, 2022)		October 7, 2022	Opening Expert Reports.
35 weeks after <i>Markman</i> hearing (August 10, 2022)		November 10, 2022	Rebuttal Expert Reports.
38 weeks after <i>Markman</i> hearing (August 31, 2022)		December 9, 2022	Close of Expert Discovery.
39 weeks after <i>Markman</i> hearing (September 7, 2022)		December 16, 2022	Deadline for the second of two meet and confers 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.
40 weeks after <i>Markman</i> hearing (September 14, 2022)		January 6, 2023	Dispositive motion deadline and Daubert motion deadline. <i>See</i> General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
42 weeks after <i>Markman</i> hearing (September 28, 2022)		January 27, 2023	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
44 weeks after <i>Markman</i> hearing (October 12, 2022)		February 10, 2023	Serve objections to pretrial disclosures/rebuttal disclosures.
45 weeks after <i>Markman</i> hearing (October 19, 2022)		February 17, 2023	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
46 weeks after <i>Markman</i> hearing (October 26, 2022)		February 24, 2023	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>

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