

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

JAWBONE INNOVATIONS, LLC,	§	Case No. 6:23-cv-00158-ADA
	§	
Plaintiff,	§	<b><u>JURY TRIAL DEMANDED</u></b>
	§	
v.	§	
	§	
META PLATFORMS, INC., D/B/A META,	§	
	§	
Defendant.	§	
	§	

**JOINT MOTION FOR ENTRY OF DISPUTED SCHEDULING ORDER**

Pursuant to the Court’s Standing Order Governing Proceedings in Patent Cases, and the Notice of Joint Extensions of Deadlines for Contentions (Dkt. 24), the Parties hereby submit this Joint Motion for Entry of Disputed Scheduling Order for all deadlines in this case.

Plaintiff Jawbone Innovations, LLC (“Plaintiff” or “Jawbone”) and Defendant Meta Platforms, Inc. (“Defendant” or “Meta”) have conferred regarding a schedule in this case, but still disagree on certain deadlines between now and trial. Primarily, the Parties disagree as to whether Plaintiff should be required to reduce the 208 asserted claims prior to Defendant’s deadline to serve preliminary invalidity contentions. The Parties also disagree as to whether the schedule should include additional time to accommodate the reduction in asserted claims and subsequent preparation of preliminary invalidity contentions.

The Parties presently intend to brief this issue in accordance with the procedure for discovery disputes set forth in the Court’s Standing Order Governing Proceedings in Patent Cases. The Parties’ proposed schedules are set forth below.

Plaintiff's Proposed Deadline	Defendant's Proposed Deadline	Event
November 1, 2023		Plaintiff serves preliminary <sup>1</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 earliest priority date ( <i>i.e.</i> 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.
November 8, 2023		The Parties shall submit an agreed Scheduling Order. If the parties cannot agree, the parties shall submit a separate Joint Motion for entry of Scheduling 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.
November 29, 2023		Deadline to file any motion to transfer.
N/A	December 6, 2023	Deadline to narrow asserted claims to 40 asserted claims. Plaintiff agrees not to add new claims beyond these 40 claims nor replace any of these 40 claims with new ones, but it reserves the right to further reduce the asserted claims to a subset of these 40 claims as the case proceeds.
January 10, 2024	February 14, 2024 <sup>2</sup>	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).

<sup>1</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.

<sup>2</sup> If the Court is not inclined to order a narrowing of asserted claims prior to the due date for preliminary invalidity contentions, Defendant argues in the alternative that this or a later date is necessary in view of the over 200 asserted claims.

Plaintiff's Proposed Deadline	Defendant's Proposed Deadline	Event
January 10, 2024	February 28, 2024	Parties exchange claim terms for construction.
January 24, 2024	March 13, 2024	Parties exchange proposed claim constructions.
January 31, 2024	March 20, 2024	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.
February 7, 2024	March 27, 2024	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
February 14, 2024	April 3, 2024	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
March 6, 2024	April 24, 2024	Plaintiff files Responsive claim construction brief.
March 20, 2024	May 8, 2024	Defendant files Reply claim construction brief.
March 20, 2024	May 8, 2024	Parties to jointly email the law clerks ( <i>see</i> OGP at 1) to confirm their Markman date and to notify if any venue or jurisdictional motions remain unripe for resolution
April 3, 2024	May 22, 2024	Plaintiff files a Sur-Reply claim construction brief.
April 8, 2024	May 27, 2024	Parties submit Joint Claim Construction Statement.  <i>See</i> General Issues Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
April 5, 2024	May 24, 2024	Parties submit optional technical tutorials to the Court and technical advisor (if appointed).
April 17, 2024 <sup>4</sup>	June 5, 2024	<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.
April 18, 2024	June 6, 2024	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
May 29, 2024	July 17, 2024	Deadline to add parties.
June 12, 2024	July 31, 2024	Deadline to serve Final Infringement and Invalidity

<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> All deadlines hereafter follow the original *Markman* hearing date and do not change if the Court delays the *Markman* hearing.

Plaintiff's Proposed Deadline	Defendant's Proposed Deadline	Event
		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.
August 7, 2024	September 25, 2024	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.)
October 16, 2024	December 4, 2024	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.
November 13, 2024	January 8, 2024	Close of Fact Discovery
November 20, 2024	January 15, 2025	Opening Expert Reports.
December 18, 2024	February 12, 2025	Rebuttal Expert Reports.
January 8, 2025	March 5, 2025	Close of Expert Discovery.
January 15, 2025	March 12, 2025	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.
January 22, 2025	March 19, 2025	Dispositive motion deadline and Daubert motion deadline.  <i>See</i> General Issues Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
February 5, 2025	April 2, 2025	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
February 19, 2025	April 16, 2025	Serve objections to pretrial disclosures/rebuttal disclosures.
February 26, 2025	April 23, 2025	Serve objections to rebuttal disclosures; file Motions <i>in limine</i> .
March 5, 2025	April 30, 2025	File Joint Pretrial Order and Pretrial Submissions (jury

Plaintiff's Proposed Deadline	Defendant's Proposed Deadline	Event
		instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
March 12, 2025	May 7, 2025	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 file replies to motions <i>in limine</i> .
March 19, 2025	May 14, 2025	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
February 19, 2025	April 16, 2025	Parties to jointly email the Court's law clerk ( <i>See OGP at 1</i> ) to confirm their pretrial conference and trial dates.
March 21, 2025	May 16, 2025	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
March 26, 2025	May 21, 2025	Final Pretrial Conference.
April 16, 2025 <sup>5</sup>	June 11, 2025	Jury Selection/Trial.

Dated: November 20, 2023

Respectfully submitted,

/s/ Peter Lambrianakos

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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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