

**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,	§	<u>JURY TRIAL DEMANDED</u>
	§	
v.	§	
	§	
META PLATFORMS, INC., D/B/A META,	§	
	§	
Defendant.	§	
	§	

DEFENDANT’S PROPOSED SCHEDULING ORDER

Having considered the Parties’ motion, the Court ORDERS that the following Schedule will govern deadlines up to and including the trial of this matter:

Deadline	Event
November 1, 2023	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>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.

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.

Deadline	Event
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.
February 14, 2024 ²	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).
February 28, 2024	Parties exchange claim terms for construction.
March 13, 2024	Parties exchange proposed claim constructions.
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. ³ 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.
March 27, 2024	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
April 3, 2024	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
April 24, 2024	Plaintiff files Responsive claim construction brief.
May 8, 2024	Defendant files Reply claim construction brief.
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
May 22, 2024	Plaintiff files a Sur-Reply claim construction brief.
May 27, 2024	Parties submit Joint Claim Construction Statement. <i>See</i> General Issues Note #7 regarding providing copies of the

² 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.

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

Deadline	Event
	briefing to the Court and the technical advisor (if appointed).
May 24, 2024	Parties submit optional technical tutorials to the Court and technical advisor (if appointed).
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.
June 6, 2024	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
July 17, 2024	Deadline to add parties.
July 31, 2024	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.
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.)
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.
January 8, 2024	Close of Fact Discovery
January 15, 2025	Opening Expert Reports.
February 12, 2025	Rebuttal Expert Reports.
March 5, 2025	Close of Expert Discovery.
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.
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).
April 2, 2025	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
April 16, 2025	Serve objections to pretrial disclosures/rebuttal disclosures.
April 23, 2025	Serve objections to rebuttal disclosures; file Motions <i>in limine</i> .
April 30, 2025	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> .
May 7, 2025	File Notice of Request for Daily Transcript or Real Time

Deadline	Event
	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 kmdaviscsr@yahoo.com Deadline to file replies to motions <i>in limine</i> .
May 14, 2025	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
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.
May 16, 2025	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
May 21, 2025	Final Pretrial Conference.
June 11, 2025	Jury Selection/Trial.

Dated: November ____, 2023

HONORABLE ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE