

THE HONORABLE JAMES L. ROBERT

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

CYWEE GROUP LTD.,

Plaintiff,

HTC CORPORATION
and
HTC AMERICA, INC.,

Defendants.

CASE NO. 2:17-cv-00932-JLR

**JOINT STATUS REPORT AND
DISCOVERY PLAN**

JURY TRIAL DEMANDED

JOINT STATUS REPORT AND DISCOVERY
PLAN
CASE No. 2:17-cv-932-JLR- 1

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1 Pursuant to Federal Rule of Civil Procedure 26(f), Local Civil Rules 16 and 26(f), this
2 Court's Order regarding Initial Disclosures, Joint Status Report and Early Settlement dated
3 September 18, 2017 and extended by Order entered September 26, 2017, and pursuant to Local
4 Patent Rule ("LPR") 110, the following Joint Status Report and Discovery Plan is submitted by
5 Plaintiff CyWee Group Ltd. ("CyWee" or "Plaintiff") and Defendants HTC Corporation and
6 HTC America, Inc. (collectively, "HTC" or "Defendants").

7 1. NATURE AND COMPLEXITY OF THE CASE

8 CyWee accused HTC of infringing U.S. Patent Nos. 8,441,438 ("the '438 Patent") and
9 8,552,978 ("the '978 Patent") (collectively, the "Asserted Patents."). The claims of the patents-
10 in-suit require, *inter alia*, sensor fusion in which information is combined from different sensors.
11 More specifically, the '438 Patent requires an accelerometer and gyroscope, while the '978
12 Patent additionally requires a magnetometer. CyWee accuses several HTC smartphones
13 incorporating such sensors of infringing the patents-in-suit, including the HTC One M9, HTC
14 One A9, HTC 10, HTC Bolt, and HTC U Ultra. CyWee accused HTC of directly infringing the
15 patents-in-suit and also of inducing infringement of those patents. HTC filed a motion to dismiss
16 (Dkt. 35), in which it seeks to dismiss CyWee's allegations of induced infringement.

17 HTC has not yet filed its answer to the complaint. Among other defense, HTC believes
18 that to the extent the accused products incorporate devices that allegedly practice one or more of
19 the Asserted Patents, those devices were sold to HTC by CyWee's licensees, ST Microelectronic.
20 HTC further believes that the authorized sale of these devices with CyWee's technology and
21 software that allegedly embody the Asserted Patents by CyWee's licensee to HTC exhausts
22 CyWee's patent rights in those products.

23 2. PROPOSED DEADLINE FOR JOINING ADDITIONAL PARTIES

24 The parties propose a deadline for joining additional parties to be set at 75 days after the
25 filing of Defendants' answer to the complaint.
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1 **3. CONSENT TO MAGISTRATE**

2 The parties have not consented to have this case heard by a Magistrate Judge.

3 **4. DISCOVERY PLAN**

4 **A. Initial Disclosures**

5 The Rule 26(f) conference was conducted on November 1, 2017. The Rule 26(a) initial
6 disclosures were made on November 16, 2016.

7 **B. Subjects, Timing and Potential Phasing of Discovery**

8 The parties do not believe phasing of discovery is necessary, beyond the restrictions the
9 Local Patent Rules impose. *See* LPR. 112.

10 **The Parties' Joint Position:** The parties do not believe discovery should be bifurcated or
11 phased, except as described herein. The parties submit the following agreed-upon proposed
12 schedule, which deviates slightly from the deadlines contained in the Court's Standing Rules for
13 Patent Cases, due to the length of time before trial and the needs of the parties:

Deadline	Proposed Schedule
Preliminary Infringement Contentions and Disclosure of Asserted Claims (LPR 120)	Tuesday, January 9, 2018
Preliminary Non-Infringement and Invalidity Contentions (LPR 121)	Tuesday, January 30, 2018
Proposed Terms and Claim Elements for Construction (LPR 130(a))	Monday, February 26, 2018
Preliminary Claim Constructions and Extrinsic Evidence (LPR 131(a), (b))	Monday, March 26, 2018
Expert Witness Report on <i>Markman</i> (if necessary)	Thursday, April 26, 2018
Rebuttal Expert Witness Report on <i>Markman</i> (if necessary)	Thursday, May 24, 2017
Joint Claim Construction Chart and Prehearing Statement (LPR 132(a))	Thursday, June 7, 2018
Completion of Claim Construction Discovery	Thursday, June 14, 2018
Opening <i>Markman</i> Briefs	Thursday, June 21, 2018
Response <i>Markman</i> Briefs	Tuesday, July 17, 2018
<i>Markman</i> Hearing	At Court's convenience on or after Thursday, August 2, 2018
Close of Fact Discovery	Thursday, September 6, 2018
Parties Serve Opening Expert Reports	Thursday, October 4, 2018
Parties Serve Rebuttal Expert Reports	Thursday, October 25, 2018
Close of Expert Discovery	Monday, December 3, 2018
Last Day to File Dispositive Motions	Friday, December 14, 2018
Motions in Limine	Friday, January 11, 2019
Agreed Pretrial Order	Monday, January 21, 2019
Trial briefs, proposed voir dire questions, proposed jury instruction	Thursday, January 31, 2019
Pretrial Conference	Thursday, February 14, 2019
Trial (Parties propose 7-8 Jury Days)	Monday, March 4, 2019

1 **C. Electronically Stored Information**

2 The parties intend to adopt modified versions of the Court’s Model Agreement Regarding
3 Discovery of Electronically Stored Information and of the Court’s Model Stipulated Protective
4 Order.

5 **D. Privilege Issues**

6 The parties consent to the claw back agreement provided in the Court’s Model
7 Agreement Regarding Discovery of Electronically Stored Information and Model Stipulated
8 Protective Order.

9 **E. Proposed Limitations on Discovery**

10 The parties do not believe that there should be any limitations to discovery other than
11 those set forth in the Federal Rules of Civil Procedure, the Local Rules, the Patent Local Rules,
12 and the Orders of this Court except as noted below:

13 The parties agree that the limits on depositions set forth in the Federal Rules of Civil
14 Procedure shall govern depositions, except that, for each expert report served by an expert
15 witness, the parties will be permitted one (1) day of seven (7) hours to depose said expert
16 witness. By way of example, if a party designates a single expert to testify on the separate issues
17 of infringement and invalidity, the opposing party will be permitted to depose that expert for one
18 day of seven hours on each respective issue. The parties will negotiate in good faith regarding
19 additional deposition time should any party reasonably believe that a specific need for additional
20 time exists.

21 A non-translated deposition will not go longer than seven (7) hours per day on the record
22 on any given day, unless agreed to by the party being deposed, who shall not unreasonably
23 withhold consent to allow additional time if needed to fairly examine the deponent and such
24 additional time is no more than sixty (60) minutes. This seven-hour per day limitation does not
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