

APPENDIX A

STIPULATED PATENT CASE PROTECTIVE ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
_____ DIVISION**

)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
)	
Defendant.)	

[STIPULATED]¹ PATENT CASE PROTECTIVE ORDER

[If by stipulation.] The parties to this Stipulated Patent Case Protective Order have agreed to the terms of this Order. Accordingly, it is ORDERED:

[If not fully by stipulation.] A party to this action has moved that the Court enter a protective order. The Court has determined that the terms set forth herein are appropriate to protect the respective interests of the parties, the public, and the Court. Accordingly, it is ORDERED:

1. Scope. All disclosures, affidavits, and declarations and exhibits thereto, deposition testimony and exhibits, discovery responses, documents, electronically stored information, tangible objects, information, and other things produced, provided, or disclosed in the course of this action, which may be subject to restrictions on disclosure under this Order, and information derived directly therefrom (hereinafter referred to collectively as "documents"), shall be subject to this Order as set forth below. As there is a presumption in favor of open and public judicial proceedings in the federal courts, this Order shall be strictly construed in favor of public disclosure and open proceedings wherever possible. The Order is also subject to the Local Rules of this District and the Federal Rules of Civil Procedure on matters of procedure and calculation of time periods.

2. Form and Timing of Designation. A party may designate documents as confidential and restricted in disclosure under this Order by placing or affixing the words "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" (hereinafter referred to as "CONFIDENTIAL") or

¹ Counsel should include or delete language in brackets as necessary to the specific case.

"ATTORNEYS EYES ONLY - SUBJECT TO PROTECTIVE ORDER" (hereinafter referred to as "ATTORNEYS EYES ONLY") on the document in a manner that will not interfere with the legibility of the document and that will permit complete removal of the designation. Documents shall be designated prior to or at the time of the production or disclosure of the documents. When a tangible object is produced for inspection, subject to protection under this Order, a photograph thereof shall be produced at the time of inspection labeled with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY. Thereafter, any information learned or obtained as a result of the inspection shall be subject to protection under this Order in accordance with the applicable designation. When electronically stored information is produced, which cannot itself be marked with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY, the physical media on which such electronically stored information is produced shall be marked with the applicable designation. The party receiving such electronically stored information shall then be responsible for labeling any copies that it creates thereof, whether electronic or paper, with the applicable designation. By written stipulation, the parties may agree temporarily to designate original documents that are produced for inspection CONFIDENTIAL or ATTORNEYS EYES ONLY even though the original documents being produced have not themselves been so labeled. All information learned in the course of such an inspection shall be protected in accordance with the stipulated designation. The copies of documents that are selected for copying during such an inspection shall be marked CONFIDENTIAL or ATTORNEYS EYES ONLY as required under this Order and, thereafter, the copies shall be subject to protection under this Order in accordance with their designation. The designation of documents for protection under this Order does not mean that the document has any status or protection by statute or otherwise, except to the extent and for the purposes of this Order.

3. Documents Which May be Designated CONFIDENTIAL. Any party may designate documents as CONFIDENTIAL upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as confidential business or personal information, medical or psychiatric information, trade secrets, personnel records, or such other sensitive commercial information that is not publicly available. Public records and documents that are publicly available may not be designated for protection under this Order.

4. **Documents Which May be Designated ATTORNEYS EYES ONLY.** Any party may designate documents as ATTORNEYS EYES ONLY upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as trade secrets or other highly sensitive business or personal information, the disclosure of which is likely to cause significant harm to an individual or to the business or competitive position of the designating party.

5. **Depositions.** Deposition testimony shall be deemed CONFIDENTIAL or ATTORNEYS EYES ONLY only if designated as such. Such designation shall be specific as to the portions of the transcript or any exhibit designated for protection under this Order. Thereafter, the deposition testimony and exhibits so designated shall be protected, pending objection, under the terms of this Order. By stipulation read into the record, the parties may agree temporarily to designate an entire deposition and the exhibits used therein for protection under this Order, pending receipt and review of the transcript. In such a circumstance, the parties shall review the transcript within thirty (30) days of the receipt thereof and specifically designate the testimony and exhibits that will be protected under this Order. Thereafter, only the specifically designated testimony and exhibits shall be protected under the terms of this Order.

6. **Protection of Confidential Material.**

(a) **Protection of Documents Designated CONFIDENTIAL.** Documents designated CONFIDENTIAL under this Order shall not be used for any purpose whatsoever other than the prosecution or defense of this action and of any appeal thereof. The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL to any third person or entity, except as set forth in subparagraphs (1)-(7). Subject to these requirements, the following categories of persons may be allowed to review documents that have been designated CONFIDENTIAL:

- (1) **Outside Counsel of Record.** Outside counsel of record for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action.
- (2) **Parties.** Parties and employees of a party to this Order.

- (3) The Court. The Court and its personnel.
- (4) Court Reporters and Recorders. Court reporters and recorders engaged for depositions.
- (5) Persons Creating or Receiving Documents. Any person who authored or recorded the designated document and any person who has previously seen or was aware of the designated document.
- (6) Consultants, Investigators, and Experts. Consultants, investigators, and experts employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to be Bound.
- (7) Others by Consent. Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to be Bound.

(b) Protection of Documents Designated ATTORNEYS EYES ONLY. Documents designated ATTORNEYS EYES ONLY under this Order shall not be used for any purpose whatsoever other than the prosecution or defense of this action, and of any appeal thereof. The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated ATTORNEYS EYES ONLY to any third person or entity, except as set forth in subparagraphs (1)-(6). Subject to these requirements, the following categories of persons may be allowed to review documents that have been designated ATTORNEYS EYES ONLY.

- (1) Outside Counsel of Record. Outside counsel of record for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action.
- (2) The Court. The Court and its personnel.

- (3) Court Reporters and Recorders. Court reporters and recorders engaged for depositions.
- (4) Persons Creating or Receiving Documents. Any person who authored or recorded the designated document and any person who has previously seen or was previously aware of the designated document.
- (5) Consultants, Investigators and Experts. Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.
- (6) Others by Consent. Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.

(c) **Control of Documents.** Counsel for the parties shall take reasonable and appropriate measures to prevent unauthorized disclosure of documents designated for protection under this Order. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of one (1) year after dismissal of the action, the entry of final judgment and/or the conclusion of any appeals arising therefrom.

(d) **Copies.** All copies of documents designated for protection under this Order, or any individual portion of such a document, shall be marked with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY if the words do not already appear on the copy. All such copies shall be entitled to the protection of this Order. The term "copies" shall not include indices, electronic databases, or lists of documents, provided these indices, electronic databases, or lists do not contain substantial portions or images of the text of designated documents or otherwise disclose the substance of the designated documents.

(e) **Inadvertent Production.** Inadvertent production of any document or information

without a designation of CONFIDENTIAL or ATTORNEYS EYES ONLY shall be governed by Federal Rules of Evidence Rule 502.

7. Filing of CONFIDENTIAL or ATTORNEYS EYES ONLY Documents under Seal.

The Court highly discourages the manual filing of any pleadings or other papers under seal. To the extent that a pleading or other paper references an exhibit designated for protection under this Order, then the pleading or other paper shall refer the Court to the particular exhibit filed under seal without disclosing the contents of any confidential information.

(a) Before any exhibit designated for protection under this Order is filed under seal with the Clerk, the filing party shall first consult with the party that originally designated the document for protection under this Order to determine whether, with the consent of that party, the exhibit or a redacted version of the exhibit may be filed with the Court not under seal.

(b) Where agreement is not possible or adequate, an exhibit designated for protection under this Order shall be filed electronically under seal in accordance with the Electronic Case Filing procedures of this Court.

(c) Where filing electronically under seal is not possible or adequate, before an exhibit designated for protection under this Order is filed with the Clerk, it shall be placed in a sealed envelope marked CONFIDENTIAL or ATTORNEYS EYES ONLY, and the envelope shall also display the case name, docket number, a designation of what the exhibit is, the name of the party on whose behalf it is submitted, and the name of the attorney who has filed the exhibit on the front of the envelope. A copy of any exhibit filed under seal shall also be delivered to the judicial officer's chambers.

(e) To the extent that it is necessary for a party to discuss the contents of any document designated for protection under this Order in a pleading or other paper filed with this Court, then such portion of the pleading or other paper shall be filed under seal. In such circumstances, counsel shall prepare two versions of the pleading or other paper: a public and a sealed version. The public version shall contain a redaction of references to CONFIDENTIAL or ATTORNEYS EYES ONLY documents. The sealed version shall be a full and complete version of the pleading or other paper and shall be filed with the Clerk under seal as above. A copy of the unredacted pleading or other

paper also shall be delivered to the judicial officer's chambers.

8. Challenges by a Party to a Designation for Protection under this Order. Any CONFIDENTIAL or ATTORNEYS EYES ONLY designation is subject to challenge by any party or non-party with standing to object (hereafter "party"). Before filing any motions or objections to a designation for protection under this Order with the Court, the objecting party shall have an obligation to meet and confer in a good faith effort to resolve the objection by agreement. If agreement is reached confirming or waiving the CONFIDENTIAL or ATTORNEYS EYES ONLY designation as to any documents subject to the objection, the designating party shall serve on all parties a notice specifying the documents and the nature of the agreement.

9. Action by the Court. Applications to the Court for an order relating to any documents designated for protection under this Order shall be by motion under Local Rule 7.1 and any other procedures set forth in the presiding judge's standing orders or other relevant orders. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make any orders that may be appropriate with respect to the use and disclosure of any documents produced or used in discovery or at trial.

10. Use of Confidential Documents or Information at Trial. Absent order of the Court, all trials are open to the public, and there will be no restrictions on the use at trial of any document designated for protection under this Order. If a party intends to present at trial documents designated for protection under this Order, or information derived therefrom, such party shall provide advance notice to the party designating the documents for protection under this Order at least seven (7) days before the commencement of trial by identifying the documents or information at issue as specifically as possible (i.e., by Bates number, page range, deposition transcript lines, etc.). Upon motion of the party designating the document for protection under this Order, the Court may thereafter make such orders as are necessary to govern the use of such documents or information at trial.

11. Obligations on Conclusion of Litigation.

(a) **Order Remains in Effect.** Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.

(b) Return of Documents Designated for Protection Under this Order. Within thirty (30) days after dismissal or entry of final judgment not subject to further appeal, all documents designated for protection under this Order, including copies as defined in ¶6(d), shall be returned to the producing party unless: (1) the document has been offered into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction in lieu of return; or (3) as to documents bearing the notations, summations, or other mental impressions of the receiving party, that party elects to destroy the documents and certifies to the producing party that it has done so. Notwithstanding the above requirements to return or destroy documents, counsel may retain copies of all pleadings, motions, orders, written discovery, and other papers filed with the Court or exchanged by the parties even though they may contain documents designated for protection under this Order. Counsel may also retain attorney work product, including an index which refers or relates to documents designated for protection under this Order, so long as that work product does not duplicate verbatim substantial portions of the text or images of documents designated for protection under this Order. This work product shall continue to be subject to the protections of this Order in accordance with the applicable designation. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose or use documents designated for protection under this Order.

(c) Return of Documents Filed under Seal. After dismissal or entry of final judgment not subject to further appeal, the Clerk may elect to return to counsel for the parties or, after notice, destroy documents filed or offered at trial under seal or otherwise restricted by the Court as to disclosure.

12. Order Subject to Modification. This Order shall be subject to modification by the Court on its own motion or on motion of a party or any other person with standing concerning the subject matter. Motions to modify this Order shall be served and filed under Local Rule 7.1 and the presiding judge's standing orders or other relevant orders.

13. No Prior Judicial Determination. This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any documents designated for protection under this Order are entitled to protection under Rule 26(c) of the Federal Rules of Civil Procedure,

or otherwise, until such time as the Court may rule on a specific document or issue.

14. Persons Bound. This Order shall take effect when entered and shall be binding upon all counsel and their law firms, the parties, and persons made subject to this Order by its terms.

IT IS SO ORDERED, this ____ day of _____, _____.

s/ _____
U.S. DISTRICT JUDGE /
U.S. MAGISTRATE JUDGE

[Delete signature blocks if not wholly by consent]

**WE SO MOVE/STIPULATE
and agree to abide by
terms of this Order.**

Counsel for Plaintiff

Counsel for Defendant

ATTACHMENT A

ACKNOWLEDGEMENT OF UNDERSTANDING AND AGREEMENT TO BE BOUND

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
_____ DIVISION**

,)	
)	
Plaintiff,)	
v.)	Case No.
)	
,)	
)	
Defendant.)	

ACKNOWLEDGMENT OF UNDERSTANDING AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the Protective Order entered in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the Western District of Tennessee in matters relating to the Protective Order and understands that the terms of the Protective Order obligate him/her to use documents designated **CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER** or **ATTORNEYS EYES ONLY – SUBJECT TO PROTECTIVE ORDER** in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived directly therefrom to any other person, firm, or concern.

The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name (Print): _____

Job Title: _____

Employer: _____

Business Address: _____

I declare under penalty of perjury that the foregoing is true and correct.

Signature: _____

Date: _____

APPENDIX B

JOINT PLANNING REPORT AND PROPOSED SCHEDULE

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
_____ DIVISION**

,)		
)		
Plaintiff,)		
v.)	Case No.	
)		
,)		
)		
Defendant.)		

JOINT PLANNING REPORT AND PROPOSED SCHEDULE

Pursuant to Local Rule 16.1, a scheduling conference was held on [insert date]. Present were _____, counsel for plaintiff, and _____, counsel for defendant. Prior to the scheduling conference, on [insert date], the parties met and conferred in compliance with Federal Rule of Civil Procedure 26(f). The following dates are established as the final deadlines for:

INITIAL DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1): [insert date]

PATENT RELATED DISCLOSURES:

Proposed Schedule: [*Counsel shall include dates for all disclosures required by the Local Patent Rules for the Western District of Tennessee to the extent such disclosures have not already been made. [See, e.g., Appendix D, Sample Local Patent Rules Timeline.](#)*]

Proposed Departures: [*If the parties are advocating a departure from the dates set forth in the Patent Local Rules, set forth the basis for said departure.*]

MOTIONS:

MOTIONS TO JOIN PARTIES: [insert date]

MOTIONS TO AMEND PLEADINGS: [insert date]

MOTIONS TO DISMISS: [insert date]

The parties anticipate filing the following additional motions:

- i. [Preliminary Injunction / Other]
 - a. Proposed Briefing Schedule:

The following issues may be the proper subject of an early motion for summary judgment or partial summary adjudication:

- i. [Inventorship or Indefiniteness / Invalidating sale, offer for sale, or display Other]
 - a. [Describe Basis]

NATURE OF DISPUTE:

- a. Description of the Field of the Claimed Invention:
- b. Claims asserted:
- c. Number of Claim Terms to be Construed: The parties anticipate requesting that the Court construe _____ claim terms.
- d. Description of the Allegedly Infringing Activity or Product:
- e. Description of Any Potentially Non-infringing Alternative Designs:
- f. Stipulation of Non-infringement: The parties **HAVE/HAVE NOT** stipulated that the above-described designs do not infringe the patents in issue.

COMPLETING ALL DISCOVERY: [insert date]

WRITTEN DISCOVERY: [insert date]

DEPOSITIONS: [insert date]

If the parties anticipate needing to propound interrogatories and/or take depositions in excess of the number provided in the Federal Rules of Civil Procedure, set forth the proposed limit and basis for the request:

The parties **HAVE/HAVE NOT** agreed to an electronic discovery plan. Absent agreement by the parties, the default standard for e-discovery set forth in Local Rule 26.1(e) applies.

The parties anticipate the following discovery issues:

EXPERT WITNESS DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(2):

DISCLOSURE OF PLAINTIFF'S (OR PARTY WITH BURDEN OF PROOF) RULE 26(A)(2) EXPERT INFORMATION: [insert date]

DISCLOSURE OF DEFENDANT'S (OR OPPOSING PARTY) RULE 26(A)(2) EXPERT INFORMATION: [insert date]

EXPERT WITNESS DEPOSITIONS: [insert date]

MOTIONS TO EXCLUDE EXPERTS UNDER F.R.E. 702/DAUBERT MOTIONS: [insert date]

SUPPLEMENTATION UNDER RULE 26(e)(2): [insert date]

FILING DISPOSITIVE MOTIONS: [insert date]

PROTECTIVE ORDER:

- a. The parties **HAVE/HAVE NOT** agreed to the form Patent Case Protective Order set forth in Appendix A to the Local Patent Rules.
- b. The parties **DO/DO NOT** plan to submit an alternative proposed protective order for adoption by the Court.
- c. Identify any issues the Court should be aware of with respect to the confidentiality

concerns of the parties:

CLAIM CONSTRUCTION HEARING: The parties propose the following format for the Claim Construction Hearing:

- a. Order of presentation:
- b. Anticipated number of witnesses:
- c. Anticipated length of hearing:

ELECTRONIC EXCHANGE: The parties **HAVE/HAVE NOT** consented, pursuant to Fed. R. Civ. P. 5(b)(2)(E), to the electronic exchange of pleadings, notices, discovery, and other mandated disclosures not otherwise served electronically via the Court's Electronic Case Filing system.

OTHER RELEVANT MATTERS:

As required by Local Rule 26.1(e), the parties have conferred as to whether they will seek discovery of electronically stored information ("e-discovery") and [have agreed that e-discovery is not appropriate in this case and therefore they will not seek e-discovery] / [have reached an agreement regarding e-discovery and hereby submit the parties' e-discovery plan for the Court's approval] / [have not reached an agreement regarding e-discovery and will comply with the default standards described in Local Rule 26.1(e) until such time, if ever, the parties reach an agreement and the Court approves the parties' e-discovery plan].

[Pursuant to agreement of the parties, if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver.]

No depositions may be scheduled to occur after the discovery deadline. All motions, discovery requests, or other filings that require a response must be filed sufficiently in advance of

the discovery deadline to enable the opposing party to respond by the time permitted by the Rules prior to that date.

Prior to filing any *Daubert* motion or motion to compel discovery, the Parties must first move for a telephonic conference with the Court to discuss, outline, and narrow the *Daubert*- and/or discovery-related issues before filing formal motions. Motions to compel discovery are to be filed and served by the discovery deadline or within 30 days of the default or the service of the response, answer, or objection that is the subject of the motion, if the default occurs within 30 days of the discovery deadline, unless the time for filing of such motion is extended for good cause shown, or the objection to the default, response, answer, or objection is waived. When the Parties move for a telephonic conference concerning *Daubert* and/or discovery issues, they must set out any relevant deadlines and provide at least two, mutually agreed on dates and times the telephonic conference may take place.

This case is set for a [jury] / [non-jury] trial. The pretrial order deadline, pretrial conference date, and trial date will be set by separate Order. The parties anticipate the trial will last approximately [insert number] days.

The parties are ordered to engage in ADR before the close of discovery. Within 7 days of completion of ADR, the parties shall file a notice confirming that the ADR was conducted and indicating whether it was successful or unsuccessful, without disclosing the parties' respective positions at the ADR.

Pursuant to Local Rule 7.2(a)(1)(A), all motions, except motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60, shall be accompanied by a proposed order in a word processing format sent to the ECF mailbox of the presiding judge.

Pursuant to Local Rule 7.2(a)(1)(B), the parties are required to consult prior to filing any motion (except motions filed pursuant to Fed. R. Civ. P. 12, 56, 59, and 60).

The opposing party must file a response to any opposed motion. Pursuant to Local Rule

7.2(a)(2), a party's failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion.

Neither party may file an additional reply to any motion, other than a motion filed pursuant to Fed. R. Civ. P. 12(b) or 56. As provided by Local Rule 7.2(c), if a party believes that a reply is necessary, it shall file a motion for leave to file a reply accompanied by a memorandum setting forth the reasons for which a reply is required within seven days of service of the response. Pursuant to Local Rules 12.1(c) and 56.1(c), a party moving for summary judgment or to dismiss may file a reply within 14 days after being served with the response in opposition to the motion.

The parties [do] / [do not] consent to trial before the Magistrate Judge.

Counsel have met and conferred and have made good faith efforts to discuss, in person and/ or by telephone, each of the topics listed in Attachment A, and will be prepared to address these topics at the Case Management Conference ("CMC").

This order has been entered after consultation with the parties. Absent good cause shown, the deadlines set by this order will not be modified or extended.

IT IS SO ORDERED.

PRESIDING UNITED STATES JUDGE

ATTACHMENT A

TO JOINT PLANNING REPORT AND PROPOSED SCHEDULE

Counsel have met and conferred and have made good faith efforts to discuss, in person and/ or by telephone, each of the topics listed in LPR 2.1(b) and in the Checklist below, and will be prepared to address these topics at the Scheduling Conference.

Discovery

- What are the core technical documents?
- Does any party intend to request production of electronic mail? If so, why? How many custodians should be searched? What methods will be used to search for electronic documents (e.g., key word searches, predictive coding)?
- If sourcecode is going to be produced, when, where, and how will it be made available?

Claim Construction

- What are the 1 or 2 most important claim terms requiring construction?
- Should the Court consider a "super-early" limited claim construction hearing on those most important terms?

Narrowing the Case

- Will there be any point(s) in the case where it may be appropriate to limit/reduce the number of accused devices/functionalities, asserted patents, asserted claims, invalidity defenses (including obviousness combinations), and prior art references?
- Are there products that are not colorably different than the currently-accused products that Plaintiff expects or Defendant should expect Will be added to the case?
- Should damages or any other portion of the case be bifurcated?

Related Cases

- What related cases are pending, in any Court, and what is their filing date and current status?
- Does Plaintiff plan to file additional related cases and, if so, on what schedule and how should that plan affect how this case will proceed?
- Has any patent-in-suit been litigated before and how soon is Plaintiff willing to produce the results of any such litigation, including settlement agreements?

Remedies

- What initial revenue/ sales information does Plaintiff need to assess the value of the case and how soon is Defendant willing to produce such information?

- What type of relief is Plaintiff seeking: lost profits, reasonable royalties, injunction, and/ or any other form of relief?
- If applicable to the case, what does Plaintiff contend is the "smallest saleable unit"?
- Has the patent been licensed or offered for any license and how soon is Plaintiff willing to produce licensing information?

Motions to Dismiss/Transfer/Stay

- Have any of these motions been filed and/ or does any party anticipate filing such a motion?
- Will the parties consent to magistrate judge jurisdiction at least for the limited purpose of resolving these motions?²
- Should discovery and other exchanges of information be stayed during pendency of these motions?

Other Matters

- Are any post-grant review procedures underway or planned that might affect the manner in which this case should proceed?

²The identify of any party or parties declining to consent should not be disclosed to the Court at any point, only the fact that there is not unanimous consent.

APPENDIX C

JOINT CLAIM CONSTRUCTION TABLE

JOINT CLAIM CONSTRUCTION TABLE

[CASE CAPTION AND NUMBER]

<u>Claim No., Patent No.</u>				
Disputed Claim Terms <i>(Entire Claim Provided for Context. Only Underlined Claim Terms are Discussed by the Parties)</i>	Plaintiffs' Proposed Construction/Importance to Outcome	Plaintiffs' Citation to Intrinsic and Extrinsic Evidence	Defendant's Proposed Construction/Importance to Outcome	Defendant's Citation to Intrinsic and Extrinsic Evidence

APPENDIX D

SAMPLE LOCAL PATENT RULES TIMELINE

SAMPLE LOCAL PATENT RULES TIMELINE
(detailed schedule through claim construction)

	Responsive Pleading (RP)	<u>Timeline</u>	<u>Proposed Date</u>
LPR 2.1(a)	Patent Scheduling Conference Notice	<i>within 7 days after the RP is filed, the parties shall jointly file</i>	
	Patent Scheduling Conference (PSC)		<i>this conference is not necessarily going to occur prior to the Planning Meeting</i>
LPR 2.1(b)	Planning Meeting	<i>at least 14 day prior to the PSC</i>	
LPR 2.1(c)	Joint Planning Report and Proposed Schedule	<i>at least 7 days prior to the PSC</i>	
LPR 3.1-3.2	Initial Infringement Contentions	<i>Within <u>21-7</u> days after the RP is filed, a party . . . shall serve on all parties</i>	
LPR 3.3-3.4	Initial Non-infringement Contentions	<i>within 28 days after service of the <u>Initial Infringement Contentions</u></i>	
LPR 3.5-3.6	Invalidity and Unenforceability Contentions	<i>within 90 days after the RP is filed</i>	
LPR 4.1(a)	Preliminary Identification of Claim Terms to be Construed	<i>within 95 days after the RP is filed</i>	
LPR 3.7	Validity and Enforceability Contentions	<i>within 21 days after service of the <u>Invalidity and Unenforceability Contentions</u></i>	
LPR 4.1(c)	Final Identification of Claim Terms to be Construed	<i>within 115 days after the RP is filed</i>	
LPR 4.2(a)-(b)	Preliminary Claim Constructions and Supporting Material	<i>within 14 days after the exchange of <u>4.1(c) lists</u></i>	
LPR 4.3(a)	Initial Expert Claim Construction Reports	<i>within 14 days after the exchange of <u>Preliminary Claim Constructions</u></i>	
LPR 4.3(b)	Rebuttal Expert Claim Construction Reports	<i>within 14 days after disclosure of <u>Initial Expert Claim Construction Reports</u></i>	
LPR 4.3(c)	Completion of Expert Discovery	<i>within 14 days after the disclosure of <u>Rebuttal Expert Claim Construction Reports</u></i>	
LPR 4.2(c)	Final Claim Construction	<i>within 7 days after the completion of <u>Expert Claim Construction Discovery</u>, pursuant to</i>	

		<i>LPR 4.3(c), or 50 days after the exchange of <u>Prelim. Claim Constructions</u></i>	
LPR 4.4(a)	Opening Claim Construction Briefs	<i>Within 14 days after exchanging <u>Final Claim Constructions</u></i>	
LPR 4.4(b)	Responsive Claim Construction Briefs	<i>Within 30 days after the <u>Opening Claim Construction Briefs</u> are filed</i>	
LPR 4.5	Joint Claim Construction and Prehearing Statement	<i>within 7 days after the <u>Responsive Claim Construction Briefs</u> are filed</i>	
LPR 4.6	Claim Construction Hearing (CCR)	<i>within 30 days after the <u>Responsive Claim Construction Briefs</u> are filed</i>	
LPR 4.8	Production of Written Advice of Counsel	<i>at least 90 days prior to the <u>close of fact discovery</u></i>	
	Court's Claim Construction Ruling (CCCR)		<i>there is no deadline for the Court's Claim Construction Ruling</i>
LPR 3.8(a)	Final Infringement Contentions	<i>within 14 days after the CCCR is issued</i>	
LPR 3.8(b)	Final Non-infringement Contentions, Final Invalidity and Unenforceability Contentions	<i>within 14 days after the CCCR is issued</i>	
LPR 4.7	Close of Fact Discovery	<i>no later than 30 days after CCCR</i>	
LPR 4.7	Status Conference	<i>within 30 days of that ruling [CCCR]</i>	
LPR 3.8(c)	Final Validity and Enforceability Contentions	<i>within 45 days after the CCCR is issued</i>	
LPR 5.1(b)	Initial Expert Witness Disclosures	<i>within 60 days after the CCCR is issued</i>	
LPR 5.1(c)	Rebuttal Expert Witness Disclosures	<i>within 30 days after service of <u>Initial Expert Witness Disclosures</u></i>	
LPR 5.2	Completion of Depositions of Experts	<i>within 40 days after service of <u>Rebuttal Expert Witness Disclosures</u></i>	
LPR 6.1	Filing Dispositive Motions	<i>within 14 days after <u>end of expert discovery</u></i>	
LPR 6.2	Trial	<i>within 120 days after the <u>deadline for filing dispositive motions</u></i>	

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