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

EXPRESS MOBILE, INC., Plaintiff, v. EXPEDIA, INC., et al., Defendants.	Case No. 6:20-cv-801-ADA
v. eBAY INC., Defendant.	Case No. 6:20-cv-802-ADA
v. FACEBOOK, INC., Defendant.	Case No. 6:20-cv-803-ADA
v. GOOGLE LLC, Defendant.	Case No. 6:20-cv-804-ADA
v. ATLASSIAN CORP. PLC, et al., Defendants.	Case No. 6:20-cv-805-ADA

SCHEDULING ORDER

On this day the Court considered Express Mobile, Inc.'s Agreed Motion for Scheduling Order in the above-captioned cases.

The Court finds that the Motion is meritorious and should be granted. Therefore,

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IT IS ORDERED:

Deadline	Item
February 5, 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.
April 2, 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, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the two years preceding the filing of the Complaint, unless the parties agree to some other timeframe.
April 27, 2021	Parties exchange claim terms for construction.
May 11, 2021	Parties exchange proposed claim constructions.
May 13, 2021	Parties submit a status report to the Court outlining their agreements and/or disputes relating to *Markman* briefing.

[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.

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Deadline	Item
May 18, 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.
May 25, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
June 1, 2021	Plaintiff files Opening claim construction brief, including any arguments that any claim terms are not indefinite.
June 22, 2021	Defendant files Responsive claim construction brief.
July 6, 2021	Plaintiff files Reply claim construction brief.
July 20, 2021	Defendant files a Sur-Reply claim construction brief.
July 23, 2021	Parties submit Joint Claim Construction Statement. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
July 27, 2021	Parties submit optional technical tutorials to the Court and technical adviser (if appointed).[3]
August 3, 2021	*Markman* Hearing at 9:30 a.m.
August 4, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
September 14, 2021	Deadline to add parties.
October 26, 2021	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.

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

[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.

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Deadline	Item
November 23, 2021	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.)
March 1, 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.
April 12, 2022	Close of Fact Discovery.
April 19, 2022	Opening Expert Reports.
May 17, 2022	Rebuttal Expert Reports.
June 7, 2022	Close of Expert Discovery.
June 14, 2022	Deadline for the second of two meet and confer 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.
June 21, 2022	Dispositive motion deadline and *Daubert* motion deadline. See General Issues Note #8 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
July 5, 2022	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
July 19, 2022	Serve objections to pretrial disclosures/rebuttal disclosures.
July 26, 2022	Serve objections to rebuttal disclosures and **File** Motions *in limine.*
August 2, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions *in limine*

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Deadline	Item
August 9, 2022	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 kmdaviscsr@yahoo.com Deadline to meet and confer regarding remaining objections and disputes on motions *in limine*.
August 17, 2022	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions *in limine.*
August 22, 2022	Final Pretrial Conference for the first trial. The Court expects to set this date at the conclusion of the *Markman* Hearing.
September 12, 2022	Jury Selection/Trial for the first trial. The Court expects to set these dates at the conclusion of the *Markman* Hearing.

SIGNED on April 6, 2021

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

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