

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NANOBEBE US INC.	:	
	:	
<i>Plaintiff and</i>	:	
<i>Counterclaim Defendant,</i>	:	
	:	1:21-cv-8444-GHW
- against -	:	
	:	FIRST AMENDED CIVIL CASE
MAYBORN (UK) LIMITED, et al.	:	MANAGEMENT PLAN AND
	:	SCHEDULING ORDER
<i>Defendants and</i>	:	
<i>Counterclaim Plaintiffs.</i>	:	
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JENNIFER L. ROCHON, United States District Judge:

The Civil Case Management Plan and Scheduling Order (Dkt. 22) is hereby amended by striking the paragraphs listed below and replacing them with the following:

7. Fact Discovery

- a. Final requests for production of documents (if any) shall be served by ~~Mayborn Proposal: March 24, 2023~~ || ~~Nanobebe Proposal: September 4, 2023~~. **May 5, 2023**
- b. Final interrogatories (if any) shall be served by ~~Mayborn Proposal: March 24, 2023~~ || ~~Nanobebe Proposal: September 4, 2023~~. **May 5, 2023**
- c. Requests to admit (if any) shall be served by ~~Mayborn Proposal: March 24, 2023~~ || ~~Nanobebe Proposal: September 4, 2023~~. **May 5, 2023**
- d. Mayborn's final election of asserted claims shall be completed within 28 days after the Court's order ruling on claim construction.
- e. Nanobebe's final election of prior art shall be completed within 21 days after Mayborn's final election of asserted claims.
- f. Fact depositions shall be completed within 30 days of the entry of the Court's order ruling on claim construction or ~~Mayborn Proposal: April 28, 2023~~ || ~~Nanobebe Proposal: November 6, 2023~~ whichever is later. **June 28, 2023**

- g. All fact discovery shall be completed within 45 days of the entry of the Court's order ruling on claim construction ("Fact Discovery Deadline") or ~~Mayborn Proposal: May 15, 2023~~ ~~Nanobebe Proposal: November 6, 2023~~ whichever is later. **July 14, 2023**
 - h. The interim deadlines in paragraphs 7(a)-(f) may be extended by the written consent of all parties without application to the Court, provided that fact discovery is completed by the date set forth in paragraph 7(g).
8. Expert Discovery
- a. Opening expert disclosures (for issues on which a party bears the burden of proof) pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be completed within **14** ~~Mayborn Proposal: 7~~ ~~Nanobebe Proposal: 30~~ days of the Fact Discovery Deadline.
 - b. Responsive expert disclosures pursuant to Federal Rule of Civil Procedure 26(a)(2) shall be completed within 28 days of the opening expert disclosures.
 - c. All expert discovery, including expert reports and depositions, shall be completed within **70** ~~Mayborn Proposal: 45~~ ~~Nanobebe Proposal: 90~~ days of the Fact Discovery Deadline.
 - d. The interim deadlines in paragraphs 8(a)-(b) may be extended by the written consent of all parties without application to the Court, provided that expert discovery is completed by the date set forth in paragraph 8(c).
9. All motions and applications shall be governed by the Court's Individual Rules and Practices in Civil Cases, the Federal Rules of Civil Procedure, and the Local Rules of the United States District Courts for the Southern District of New York. Any extensions of the dates therein must be approved by the Court.
10. Any discovery disputes shall be addressed according to Section 2(E) of the Court's Individual Rules and Practices in Civil Cases.
11. All discovery must be within **70** ~~Mayborn Proposal: 45~~ ~~Nanobebe Proposal: 90~~ days of the Fact Discovery Deadline ("the Close of Discovery").
12. No later than two weeks after the case events or deadlines listed below, counsel for all parties must meet for at least one hour to discuss settlement and file a joint letter updating the Court on the status of the case, including but not limited to confirming that the one-hour settlement discussion occurred and stating whether all parties consent to mediation or a settlement conference to be held before the designated Magistrate Judge. The letter should not identify, explicitly or implicitly, any party that has declined to so consent. The use of any alternative dispute resolution mechanism does not stay or modify any date of this Order.
- a. The Issuance of the Court's *Markman* Order.

- b. The Fact Discovery Deadline.
- c. The Close of Discovery.

13. The Court will conduct a post-discovery pre-trial conference on October 18, 2023 at 11:00AM. [*To be completed by the Court.*] No later than one week in advance of the conference, the parties are to submit a joint two-page letter updating the Court on the status of the case, including proposed deadlines for pretrial submissions and trial dates. This conference will either serve as a pre-motion conference or will be used to set a trial date and dates for pretrial submissions. If a party wishes to move for summary judgment or to exclude expert testimony, it must, no later than three weeks before the conference, file a letter as set forth in Section 3(I) of the Court's Individual Rules and Practices in Civil Cases, and any response letter shall be filed no later than two weeks before the conference.
14. Unless otherwise ordered by the Court, the parties shall submit a Joint Pretrial Order prepared in accordance with Federal Rule of Civil Procedure 26(a)(3) and other pretrial submissions pursuant to the Court's Individual Rules and Practices in Civil Cases within 30 days of any decision on a summary judgment motion. If no motion for summary judgment is filed, the parties shall file the Joint Pretrial Order and other pretrial submissions within 30 days of the Close of Discovery.
15. The parties shall be ready for trial as of two weeks following the deadline for the proposed Joint Pretrial Order, even if trial is tentatively scheduled for a later date.
16. The case is to be tried to a jury.
17. Counsel for the parties have conferred and their best estimate of the length of trial is 4 days.
18. Other issues to be addressed at the Initial Case Management Conference, including those set forth in Federal Rule of Civil Procedure 26(f)(3), are set forth below:
None

19. Counsel for the Parties:
 - For Mayborn: John S. Goetz, Matt Colvin, Meredith Bayer of Fish & Richardson P.C..
 - For Nanobebe: Michael Kasdan, John Doroghazi of Wiggin & Dana LLP.
20. The next case management conference is scheduled for October 18, 2023 at 11:00AM. [*To be completed by the Court.*] This Order may not be modified or the dates herein extended, except by further Order of the Court for good cause shown (except as provided in paragraphs 7(h) and 8(d)). Any application to modify or extend the dates herein shall be made in a written application in accordance with the Court's Individual Rules and Practices and shall be made no less than two business days prior to the expiration of the date sought to be extended.

Dated: March 15, 2023
New York, New York

SO ORDERED:



JENNIFER L. ROCHON
United States District Judge