

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GAMEVICE, INC.,
Plaintiff,

v.

NINTENDO CO., LTD., et al.,
Defendants.

Case No. [18-cv-01942-RS](#)

**FURTHER CASE MANAGEMENT
SCHEDULING ORDER**

After considering the Joint Case Management Statement submitted by the parties and good cause appearing, IT IS HEREBY ORDERED THAT:

1. SCHEDULE

The schedule in this case shall be as follows:

Event	Date
Identification of Asserted Patent Claims	April 28, 2022
Parties Exchange Terms for Claim Construction, Including Identification of § 112(f) Terms	May 12, 2022
Parties Exchange Proposed Constructions and Supporting Evidence/Declarations	July 1, 2022
Joint Claim Construction and Pre-Hearing Statement	July 29, 2022

Gamevice's Opening Claim Construction Brief	September 7, 2022
Nintendo's Opening Claim Construction Brief	September 21, 2022
Gamevice's Reply Claim Construction Brief	September 28, 2022
Claim Construction Hearing	October 14, 2022 at 10:00 am

The case management conference previously set for April 14, 2022, is vacated.

2. INITIAL DISCLOSURES AND CONTENTIONS

In view of materials exchanged in the prior ITC cases (ITC Inv. No. 337-TA-1111 and ITC Inv. No. 337-TA-1197) and the inter partes review of the '393 patent, the parties have agreed to omit the exchange of initial disclosures, infringement contentions, and invalidity contentions in this action. Instead, certain materials exchanged in the prior ITC cases will serve as proxies for the initial contentions called for in the local patent rules. Specifically, the infringement contentions set forth in Gamevice's expert reports submitted during the ITC cases will be treated as initial infringement contentions under L. Pat. R. 3-1. Invalidity contentions and theories presented in Nintendo's expert reports and any declarations of Nintendo's experts in the ITC cases will be treated as initial invalidity contentions under L. Pat. R. 3-3. Nintendo's inequitable conduct allegations and other defenses raised in its answers to the amended complaint need not be further described beyond the materials exchanged in the ITC or the information disclosed in the answers. To the extent there are developments in this case, such as claim construction positions raised by either party or adopted by the Court that were not contemplated when the infringement and invalidity contentions, expert reports, or declarations were exchanged in the ITC cases, either party may seek to amend or supplement those disclosures to account for those developments. *See* L. Pat. R. 3-6.

3. DISCOVERY

As set forth in the modified schedule above, the parties agree that each party may submit one or more expert declarations or reports in support of its claim construction positions. To the

1 extent a party submits a declaration or report in connection with the claim construction
2 proceedings, the opposing party may take a deposition of the expert or declarant. The deposition
3 shall be limited to the disclosure in the declaration or report. If a party takes a deposition of a
4 declarant or expert in connection with the claim construction proceedings, that will not preclude
5 the taking party from seeking another deposition of a declarant on issues other than claim
6 construction, or of an expert if that expert submits an expert report.

7 All other discovery in this action shall be stayed, including damages discovery, until after
8 the completion of claim construction proceedings.

9 **4. MATERIALS FROM THE ITC CASE**

10 As discussed during a prior Case Management Conference, the parties exchanged and filed
11 a large volume of materials during the prior ITC cases. Pursuant to 28 U.S.C. § 1659(a), this Court
12 stayed Gamevice's claims in the original complaint based on the '498 and '713 patents while ITC
13 Inv. No. 337-TA-1111 was pending. Since ITC Inv. No. 337-TA-1111 is now terminated and the
14 Court has dissolved that stay, the record of the proceeding before the ITC can be transmitted to the
15 district court and "shall be admissible in the civil action, subject to such protective order as the
16 district court determines necessary, to the extent permitted under the Federal Rules of Evidence
17 and the Federal Rules of Civil Procedure." 28 U.S.C. § 1659(b). To avoid burdening the record by
18 transmission of the full record, all materials exchanged between the parties or filed with the ITC in
19 Inv. No. 337-TA-1111 shall be treated as if exchanged in discovery in this action and can be used
20 to the extent permitted by the protective order and any applicable court rule or the orders and
21 rulings of this Court. All materials exchanged between the parties or filed with the ITC in Inv. No.
22 337-TA-1197 shall also be treated as if exchanged in discovery in this action and can be used to
23 the same extent as the materials from Inv. No. 337-TA-1111.

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25 **IT IS SO ORDERED.**

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27 Dated: April 11, 2022



RICHARD SEEBORG
Chief United States District Judge

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