IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SOFTEX,LLC Plaintiff, v. HP, INC.., Defendant	**CIVIL ACTION NO. 1:22-CV-1311**

SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16, the following Scheduling Order is issued by the Court:[1]

1. The parties must mediate this case on or before **Tuesday, June 4, 2024** and submit a report in compliance with Local Rule CV-88.

2. The party asserting claims for relief shall submit a written offer of settlement to opposing parties on or before **Friday, July 19, 2024**, and each opposing party shall respond, in writing, on or before **Friday, August 2, 2024**. All offers of settlement are to be private, not filed. The parties are ordered to retain the written offers of settlement and responses so the Court may use them in assessing attorney's fees and costs at the conclusion of the trial.

3. On or before **May 4, 2023**, Plaintiff shall serve its preliminary patent infringement contentions in the form of claim charts 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] The parties are **REMINDED** that this Case is not consolidated. Motions must be filed with the appropriate—non-consolidated—case caption. Motions should be specific to the case in which they are filed. The Court also notes that this case was transferred

(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.

4. On or before **August 11, 2023**, Defendant shall serve its 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) financial data relating to the accused instrumentalities, and (3) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).

5. The following deadlines shall apply to claim construction proceedings in this case:

a. On **August 28, 2023**, the parties shall concurrently exchange a list of claim terms a party believes should be construed by the Court and identify any claim element a party contends should be governed by 35 U.S.C. § 112(f).

b. On **September 25, 2023**, the parties shall concurrently exchange proposed constructions.

c. On **October 30, 2023**, Defendant shall file its Opening Claim Construction Brief, with supporting evidence, including any declarations of expert witnesses in support of claim construction. The page limit for the Opening Claim Construction Brief shall be 20 pages, exclusive of the caption, signature block, any certificate, and exhibits.

d. On **November 27, 2023**, Plaintiff shall file its Responsive Claim Construction Brief with supporting evidence, including any responsive declarations of expert witnesses in support of its responsive positions. The page limit for the Responsive Claim Construction Brief shall be 20 pages, exclusive of the caption, signature block, any certificate, and

exhibits.

e. On **December 11, 2023**, Defendant shall file its Reply Claim Construction Brief. The page limit for this brief shall be 10 pages, exclusive of the caption, signature block, any certificate, and exhibits.

f. On **December 18, 2023,** the parties shall submit a Joint Claim Construction Statement.

6. The *Markman* hearing is to be set after claim construction briefing is complete.

7. The deadline to serve Final Infringement and Invalidity Contentions is eight weeks after the *Markman* hearing.

8. The parties shall file all motions to amend or supplement pleadings or to join additional parties on or before **January 29, 2024**.

9. The parties shall complete all fact discovery on or before **April 26, 2024**.

10. All parties with the initial burden of proof shall exchange opening expert reports (all materials required by Federal Rule of Civil Procedure 26(a)(2)(B)) on or before **May 24, 2024**. The parties exchange rebuttal expert reports (all materials required by Federal Rule of Civil Procedure 26(a)(2)(B)) on or before **June 21, 2024**.

11. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, within 11 days from the receipt of the written report of the expert's proposed testimony, or within 11 days from the completion of the expert's deposition, if a deposition is taken, whichever is later.

12. The parties shall complete all expert discovery on or before **July 26, 2024**.

13. All dispositive and Daubert motions shall be filed on or before **September 13, 2024** and shall be limited to 20 pages. Responses shall be filed and

served on all other parties not later than 14 days after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 7 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.

14. The Court will set this case for final pretrial conference and trial at a later time. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.

The parties may request that this Court extend any deadline set in this Order by filing a motion on the docket. The Court may impose sanctions under Federal Rule of Civil Procedure 16(f) if the parties do not make timely submissions under this Order.

IT IS SO ORDERED.

SIGNED on August 4, 2023.

David Alan Ezra
Senior United States District Judge

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

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NOTICE CONCERNING REFERENCE TO
UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and the Local Rules of the United States District Court for the Western District of Texas, the following party _____ through counsel _____

___ consents to having a United States Magistrate Judge preside over the trial in this case.

___ declines to consent to trial before a United States Magistrate Judge.

Respectfully submitted,

_____

Attorney for:

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