IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ATTENTIVE MOBILE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 22-1163-CJB
	)	
317 LABS, INC. d/b/a EMOTIVE,	)	
	)	
Defendant.	)	

ATTENTIVE MOBILE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CA. No. 23-87-CJB
	)	
STODGE INC. d/b/a POSTSCRIPT,	)	
	)	
Defendant.	)	

STIPULATION AND [PROPOSED] ORDER
TO MODIFY RULE 16 SCHEDULING ORDER

WHEREAS, the parties to the above actions have agreed, subject to the approval and order of the Court, to modify the current Scheduling Orders in their respective related cases (D.I. 29, No. 22-1163-CJB; D.I. 20, No. 23-87-CJB) to consolidate claim construction proceedings in the interest of efficiency and to conserve the resources of the Court and the parties.

WHEREAS, the scheduling modifications the parties propose for *Attentive Mobile Inc. v. 317 Labs, Inc. d/b/a Emotive*, C.A. No. 22-1163, are to align and consolidate claim construction proceedings between the two related cases captioned above and are not meant to impact any other portion of the parties scheduling orders; and

WHEREAS, the parties wish to consolidate Claim Construction Briefing in the interest of conserving judicial and party resources;

NOW THEREFORE, the parties respectfully request that the court modify the Scheduling Order in *Attentive Mobile Inc. v. 317 Labs, Inc. d/b/a Emotive*, CA. No. 22-1163-CJB (D.I. 29) as follows:

Event	Current Date	Proposed Date
Exchange List of Proposed Construction Terms and Proposed Construction	September 1, 2023	September 29, 2023
Meet and Confer for Joint Construction Chart	September 1, 2023 – September 15, 2023	September 29, 2023 – October 13, 2023
File Joint Claim Construction Chart	September 15, 2023	October 13, 2023
Serve Claim Construction Opening Brief	October 5, 2023	November 3, 2023
Serve Claim Construction Answering Brief	October 19, 2023	November 17, 2023
Serve Claim Construction Reply Brief	October 26, 2023	November 27, 2023
Serve Claim Construction Sur-Reply Brief	November 3, 2023	December 4, 2023

File Joint Claim Construction Brief	November 10, 2023	December 8, 2023
Claim Construction Hearing	December 7, 2023	January 9, 2024

The parties further respectfully request that the court allow the parties to consolidate Claim Construction briefing and allow Defendants to jointly file their Claim Construction Brief by modifying the following language in Sections 13 and 14 of the Scheduling Order in the above captioned cases (D.I. 29, No. 22-1163-CJB; D.I. 20, No. 23-087-CJB) as follows:

13. **Claim Construction Briefing**. Plaintiff shall serve, but not file, its opening brief upon Defendants 317 LABS, INC. d/b/a EMOTIVE and STODGE Inc. d/b/a POSTSCRIPT (collectively, "Defendants"), not to exceed 20 pages, on claim construction on or before November 3, 2023. Defendants shall jointly serve, but not file, their joint answering claim construction brief, not to exceed 30 pages, on or before November 17, 2023. Plaintiff shall serve, but not file, its reply brief, not to exceed 20 pages, on or before November 27, 2023. Defendants shall serve, but not file, their joint sur-reply brief, not to exceed 10 pages, on or before December 4, 2023. No later than December 8, 2023, the parties shall file a single Joint Claim Construction Brief. The parties shall copy and paste their unfiled briefs into one brief, with their positions on each claim term in sequential order, in substantially the form below:

I. Agreed-upon Constructions

II. Disputed Constructions

A. [TERM 1]

1. Plaintiff's Opening Position

2. Defendants' Joint Answering Position

3. Plaintiff's Reply Position

4. Defendants' Joint Sur-Reply Position

B. [TERM 2]

1. Plaintiff's Opening Position

2. Defendants' Joint Answering Position

3. Plaintiff's Reply Position

4. Defendants' Joint Sur-Reply Position

The parties need not include any general summaries of the law relating to claim construction. If there are any materials that would be submitted in an appendix, the parties shall file them in a joint appendix.

14. Hearing on Claim Construction. Beginning at 11:00 am, on January 9, 2024, the Court will hear argument on claim construction. The parties shall notify the Court, by joint letter submission, no later than the date on which the Joint Claim Construction Brief is due: (i) whether they request leave to present testimony at the hearing; (ii) the amount of time they are requesting be allocated to them for the hearing; and (iii) the order in which they intend to present the claim terms at issue, including which side will present first for each term. Provided that

the parties comply with all portions of this Scheduling Order, and any other orders of the Court, the Court will endeavor to issue its claim construction order within sixty (60) days of the conclusion of the claim construction hearing.

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SO ORDERED this _____ day of September, 2023

Christopher J. Burke
UNITED STATES MAGISTRATE JUDGE