

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STRYKER CORPORATION and STRYKER
SALES, LLC,

Plaintiffs/Counterclaim-Defendants,

v.

FERNO-WASHINGTON, INC. and FERNO
GROUP, INC.,

Defendants/Counterclaim-Plaintiffs.

CASE NO. 1:22-cv-00588

Judge Michael R. Barrett

Magistrate Judge Karen L. Litkovitz

JOINT SCHEDULING ORDER

AND NOW, this 1st day of March, 2023,

IT IS ORDERED that this action is placed under the Local Patent Rules of this Court for pretrial proceedings and all provisions of these Rules will be strictly enforced.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to all scheduling, status, or pretrial conferences to obtain authority to participate in settlement negotiations that may be conducted or ordered by the Court.

IT IS FURTHER ORDERED that compliance with provisions of Local Rule 16 and the Local Patent Rules shall be completed as follows:

- (1) The parties shall move to amend the pleadings or add new parties by August 18, 2023;
- (2) The party claiming patent infringement shall produce or make available for inspection and copying the documents set forth in S. D. Ohio Pat. R. 103.1(b) by the later of March 29, 2023 or 14 days after the Initial Scheduling Conference; [*14 days after the Initial Scheduling Conference*; S. D. Ohio Pat. R. 103.1(b)]
- (3) The party claiming patent infringement must serve on all parties the Disclosure of Asserted Claims and Infringement Contentions described in S. D. Ohio Pat. R. 103.2 by the later of April 14, 2023 or 30 days after the Initial Scheduling Conference; [*30 days after the Initial Scheduling Conference*; S. D. Ohio Pat. R. 103.2]

- (4) The party opposing a claim of patent infringement shall produce or make available for inspection and copying the documents set forth in S. D. Ohio Pat. R. 103.3 by May 15, 2023; [30 days after the Disclosure of Asserted Claims and Infringement Contentions described in S. D. Ohio Pat. R. 103.2 S. D. Ohio Pat. R. 103.3]
- (5) The party claiming invalidity must serve on all parties the Disclosure of Invalidity Contentions described in S. D. Ohio Pat. R. 103.4 by June 13, 2023; [60 days after service of *Disclosure of Asserted Claims and Infringement Contentions*; S. D. Ohio Pat. R. 103.4]
- (6) Each party will simultaneously exchange the Proposed Claim Terms and Phrases for Construction described in S. D. Ohio Pat. R. 105.1 by June 27, 2023; [14 days after service of the Invalidity Contentions; S. D. Ohio Pat. R. 105.1]
- (7) Each party contending a claim term or phrase should be construed by the Court shall provide the parties with the proposed Preliminary Claim Construction of each such term or phrase described in S. D. Ohio Pat. R. 105.2(a) and supporting evidence by July 25, 2023; [28 days after the S. D. Ohio Pat. R. 105.1 exchange; S. D. Ohio Pat. R. 105.2(a)]
- (8) Each party disputing a proposed “Preliminary Claim Construction” shall provide all parties with their proposed constructions for the disputed term or phrase (“Responsive Claim Construction”) described in S. D. Ohio Pat. R. 105.2(b) and supporting evidence by August 28, 2023; [60 days after the S. D. Ohio Pat. R. 105.1 exchange S. D. Ohio Pat. R. 105.2(b)]
- (9) The parties shall meet and confer regarding claim construction issues as described in S. D. Ohio Pat. R. 105.2(c) by September 15, 2023; [80 days after the S. D. Ohio Pat. R. 105.1 exchange S. D. Ohio Pat. R. 105.2(c)]
- (10) The parties shall file a Joint Disputed Claim Terms Chart as described in S. D. Ohio Pat. R. 105.2(d) by October 5, 2023; [100 days after the S. D. Ohio Pat. R. 105.1 exchange; S. D. Ohio Pat. R. 105.2(d)].
- (11) The parties shall complete discovery related to Claim Construction as described in S. D. Ohio Pat. R. 105.3 by December 4, 2023; [60 days after the filing date of S. D. Ohio Pat. R. 105.2(d) *Joint Disputed Claim Terms Chart*; S. D. Ohio Pat. R. 105.3]
- (12) Each of the Parties shall file and serve an Opening Claim Construction Brief by January 3, 2024; [90 days after filing of the S. D. Ohio Pat. R. 105.2(d) *Joint Disputed Claim Terms Chart*; S. D. Ohio Pat. R. 105.4 (a)]
- (13) Each of the Parties may file and serve a response to the Opening Claims Construction Brief, and any objections to extrinsic evidence by February 19, 2024; [45 days after service of the opening claim construction brief. S. D. Ohio Pat. R. 105.4(b)]
- (14) The Court shall conduct a hearing on the issue of Claim Construction on March 20, 2024, [30 days after submission of the reply, subject to the convenience of the Court’s calendar]

- (15) The parties shall complete fact discovery by July 29, 2024, and all interrogatories, depositions, requests for admissions, and requests for production shall be served within sufficient time to allow responses to be completed prior to the close of discovery;
- (16) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which each bears the burden of proof by September 16, 2024, [*60 days after court's ruling on claim construction*; S. D. Ohio Pat. R. 106.1(a)]
- (17) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which the opposing party bears the burden of proof by October 14, 2024 [*30 days after the first round of expert disclosures*; S. D. Ohio Pat. R. 106.1(b)]
- (18) Rebuttal expert witness disclosures are to be made by November 11, 2024 [*14 days after second round of expert disclosures*; S. D. Ohio Pat. R. 106.1(c)]
- (19) Expert Depositions, if any, shall be completed by January 24, 2025; [*60 days after commencement of deposition period*; S. D. Ohio Pat. R. 106.2]
- (20) Motions for summary judgment be filed by March 25, 2025, responses to such motions shall be filed within 45 days thereafter, and reply briefs shall be filed within 21 days thereafter.
- (21) All parties shall file an indication whether or not they are willing to proceed to trial in front of a Magistrate Judge by February 28, 2023 (see Joint Discovery Plan);
- (22) The Court shall conduct a pretrial conference on TBD, at TBD;
- (23) The trial shall commence on TBD, at TBD (time), in Courtroom 109.

IT IS SO ORDERED.

/s/ Michael R. Barrett

UNITED STATES DISTRICT JUDGE

Agreed to by:

/s/ Jesse Jenike-Godshalk

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