

EX2001

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

MHL CUSTOM, INC.

Plaintiff,

v.

Civil Action No. 3:22-cv-21258-MCR-
ZCB

FOIL BOARDING COMPANY,
INC.

Defendant.

AGREED UPDATED SCHEDULING ORDER

Plaintiff, MHL Custom, Inc. (“Plaintiff”), and Defendant, Foil Boarding Company Inc. (“Defendant”), pursuant to the parties’ Notice filed on August 18, 2023 (Docket Entry 30), hereby submit this agreed updated scheduling order. All deadlines and issues not addressed herein remain controlled by the original schedule proposed by the parties and adopted by the Court. *See* Docket Entries 19 and 20.

1. Updated Discovery Plan. The Parties jointly propose to the Court the following updated discovery plan:

a. Discovery will be needed by each party on the following subjects:

(i) All aspects of the Complaint filed by Plaintiff; and

- (ii) All defenses to be set forth by Defendant in its Answer and Affirmative Defenses.
- b. All discovery shall be commenced in time to be completed by **May 29, 2024**.
- c. The parties shall make all written discovery requests no later than **April 29, 2024**.
- d. Initial Discovery and Contentions:
 - i. By **November 22, 2023**, Defendants shall produce to Plaintiff the documents as required by, and set forth in, LPR 4.2.¹ Defendant shall further produce to Plaintiff its initial invalidity contentions for each asserted claim, as well as the related invalidating references (e.g., publications, manuals, and patents). Such contentions shall be in compliance with the form set forth in LPR 4.3.
- e. Claim Construction.
 - i. By **December 22, 2023**, the parties shall simultaneously exchange a list of claim terms, phrases, or clauses (including the qualifications of a person of ordinary skill

¹ Plaintiff agrees that Defendant would not be obligated to produce these documents prior to this date even if Plaintiff issued formal discovery requests covering such documents having a response deadline prior to this date.

in the art at the time of the invention(s) of the patents-in-suit), which the party contends should be construed by the Court, and identify any claim element which that party contends should be governed by 35 U.S.C. § 112(6). Within seven (7) days of this exchange, the parties shall meet and confer as required by LPR 6.1.

- ii. By **January 19, 2024**, the parties shall simultaneously exchange a preliminary proposed construction of each claim term, phrase, or clause which any party has identified for claim construction purposes. Each such preliminary claim construction shall also, for each element which any party contends is governed by 35 U.S.C. § 112(6), identify the structure(s), act(s), or material(s) in the specification corresponding to that element. The parties shall also simultaneously exchange a preliminary identification of extrinsic evidence, including without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses intended to support the respective claim constructions. The parties shall identify each such item of

extrinsic evidence by production number or produce a copy of any such item not previously produced. With respect to any such witness, percipient or expert, the parties shall also provide a brief description of the substance of that witness' proposed testimony. Within seven (7) days of this exchange, the parties shall meet and confer as required by LPR 6.2.

- iii. By **February 9, 2024**, the parties shall complete and file a Joint Claim Construction Statement in the form and substance required by LPR 6.3.
- iv. By **February 28, 2024**, all claim construction discovery shall be completed.
- v. By **March 15, 2024**, the parties shall serve and file an opening brief, including any supporting evidence, supporting its proposed claim construction.
- vi. By **April 5, 2024**, the parties shall serve and file a response brief, including any supporting evidence.

f. Expert Disclosures and Discovery. For the party who has the initial burden of proof on the subject matter, the initial Federal Rule 26(a)(2) disclosure of expert testimony is due on or before **June 28, 2024**. The supplemental

disclosure to contradict or rebut evidence on the same matter identified by another party is due by **July 29, 2024**. Reply reports from the party with the initial burden of proof are due by **August 6, 2024**. Other than as specified in section 3(j), below, no other expert reports will be permitted without either the consent of the parties or leave of the Court. Expert witness discovery shall be completed by **September 6, 2024**.

g. Supplemental Expert Disclosures. Any supplementation under Rule 26, as permitted by LPR 7.3, including supplementation of any expert reports on the issue of monetary damages, shall be due as soon as reasonably feasible and at least one month prior to trial as warranted pursuant to Rule 26(e).

2. Dispositive Motions. Dispositive motions, including any *Daubert* motions, shall be filed on or before **October 18, 2024**. Any response brief shall be filed no later than 21 days after the service of any dispositive motion. Any reply brief shall be filed no later than 14 days after the service of the corresponding response brief.

3. Other Items.

a. The parties should be allowed until **February 1, 2024**, to join additional parties and amend the pleadings.

b. This case should be ready for trial by **November of 2024**, subject to the Court's availability and rulings on any dispositive or *Daubert* motions, and as

soon as the court directs. The jury trial is expected to take approximately 6-7 days, including jury selection. This case requires additional time for discovery and trial beyond eight (8) months due to the complexity of the issues of patent infringement and validity (for two patents), as well as claim construction.

Respectfully submitted this the 25th day of August, 2023.

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