

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

CARBYNE BIOMETRICS, LLC,

Plaintiff,

vs.

APPLE INC.,

Defendant.

Civil Action No. 1:23-cv-00324

JURY TRIAL

SCHEDULING ORDER

Deadline	Item
June 28, 2023 (14 days after filing Notice of Readiness)	Case Management Conference (deemed to occur).
June 21, 2023 (7 days before CMC)	Plaintiff serves preliminary infringement contentions in the form of a chart 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) 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.
July 19, 2023 (3 weeks after CMC)	Deadline to file a motion for inter-district transfer. After this deadline, movants must seek leave of Court and show good cause for the delay.
August 16, 2023 (7 weeks after CMC)	Defendant serves preliminary invalidity contentions.
August 30, 2023 (9 weeks after CMC)	Parties exchange claim terms for construction.
September 13, 2023 (11 weeks after CMC)	Parties exchange proposed claim constructions.

September 20, 2023 (12 weeks after CMC)	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
September 27, 2023 (13 weeks after CMC)	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
October 4, 2023 (14 weeks after CMC)	Defendant files Opening claim construction brief, including any arguments that any claim terms are not indefinite.
October 25, 2023 (17 weeks after CMC)	Plaintiff files Responsive claim construction brief.
November 8, 2023 (19 weeks after CMC)	Defendant files Reply claim construction brief.
November 8, 2023 (19 weeks after CMC)	Parties to jointly email the law clerks (<i>see</i> OGP at 1) to confirm their <i>Markman</i> date and to notify if any venue or jurisdictional motions remain unripe for resolution.
November 22, 2023 (21 weeks after CMC)	Plaintiff files a Sur-Reply claim construction brief.
November 29, 2023 (3 business days after submission of sur-reply)	Parties submit Joint Claim Construction Statement and email the law clerks an editable copy. <i>See</i> General Issues Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
November 29, 2023 (22 after CMC (but at least 10 days before <i>Markman</i> hearing))	Parties submit optional technical tutorials to the Court and technical adviser (if appointed).
December 6, 2023 (23 weeks after CMC (or as soon as practicable))	Markman Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the <i>Markman</i> hearing approaches.
December 7, 2023 (1 business day after <i>Markman</i> hearing)	Fact discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
January 17, 2024 (6 weeks after <i>Markman</i> hearing)	Deadline to add parties.
January 31, 2024 (8 weeks after <i>Markman</i> hearing)	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.

March 27, 2024 (16 weeks after <i>Markman</i> hearing)	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims. (Note: This includes amendments in response to a 12(c) motion.)
June 5, 2024 (26 weeks after <i>Markman</i> hearing)	Deadline for first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
July 3, 2024 (30 weeks after <i>Markman</i> hearing)	Close of Fact Discovery.
July 10, 2024 (31 weeks after <i>Markman</i> hearing)	Opening Expert Reports.
August 7, 2024 (35 weeks after <i>Markman</i> hearing)	Rebuttal Expert Reports.
August 28, 2024 (38 weeks after <i>Markman</i> hearing)	Close of Expert Discovery.
September 4, 2024 (39 weeks after <i>Markman</i> hearing)	Deadline for second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
September 11, 2024 (40 weeks after <i>Markman</i> hearing)	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issue Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
September 25, 2024 (42 weeks after <i>Markman</i> hearing)	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
October 9, 2024 (44 weeks after <i>Markman</i> hearing)	Serve objections to pretrial disclosures/rebuttal disclosures.
October 16, 2024 (45 weeks after <i>Markman</i> hearing)	Serve objections to rebuttal disclosures and file motions <i>in limine</i> .
October 23, 2024 (46 weeks after <i>Markman</i> hearing)	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .

October 30, 2024 (47 weeks after <i>Markman</i> hearing)	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making the request shall file a notice with the Court and email the Court reporter, Kristie Davis at kmdaviscsr@yahoo.com . Deadline to file replies to motions <i>in limine</i> .
November 6, 2024 (48 weeks after <i>Markman</i> hearing)	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
October 9, 2024 (8 weeks before trial)	Parties to Jointly email the Court's law clerk (<i>See</i> OGP at 1) to confirm their pretrial conference and trial dates.
November 7, 2024 (3 business days before Final Pretrial Conference)	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
November 13, 2024 at 9 AM (49 weeks after <i>Markman</i> hearing (or as soon as practicable))	Final Pretrial Conference. Held in person unless otherwise requested.
December 4, 2024 at 9:30 AM (52 weeks after <i>Markman</i> hearing (or as soon as practicable))	Jury Selection/Trial.

SIGNED this 14th day of July, 2023



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE