THE HONORABLE TANA LIN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

IMMERSION CORPORATION, Plaintiff, v. VALVE CORPORATION Defendant.	Case No. 2:23-CV-00712-TL **AMENDED JOINT STATUS REPORT AND DISCOVERY PLAN**

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Valve Exhibit 1020
Valve v. Immersion

Pursuant to the Court's Order on Motion to Vacate Deadlines (Dkt. 33) ("JSR Order"), and after having conducted their rule 26(f) conference, the parties jointly submitted their Joint Status Report on August 28, 2023 (Dkt. 41). The Court has yet to enter the Proposed Case Schedule, and Valve's motion to dismiss (Dkt. 37) remains pending. The parties have since discussed certain changes to the proposed schedule. Based on those discussions, Immersion, with Valve's consent submits this Amended Joint Status Report with a revised Proposed Case Schedule, with revised entries in ***bold italics***.

1. <u>Nature and Complexity of the Case.</u>

The parties jointly present the following nature of the case as a general summary and without waiver of any kind. The parties reserve all their claims and defenses. Nothing herein shall be considered an admission by any party.

This is a patent infringement case. Plaintiff Immersion Corporation ("Immersion") asserts that Defendant Valve Corporation's ("Valve") Steam Deck and the corresponding software (including Steam), and game titles (collectively, "the Accused Handheld Instrumentalities"), as well as its Valve Index and the corresponding software (including SteamVR), and game titles (collectively "Accused VR Instrumentalities") infringe Immersion's patents, including U.S. Patent Nos. 7,336,260; 8,749,507; 9,430,042; 9,116,546; 10,627,907; 10,665,067; and 11,175,738. All of the asserted patents are based on distinct patent specifications.

Valve has moved to dismiss the entire complaint, and that motion is fully briefed. Both parties have requested oral argument. The motion to dismiss challenges the patent eligibility of five of the seven asserted patents, asserts that Immersion has not adequately pleaded induced or direct infringement for any of the asserted patents, and at least seeks to narrow the claims to well-pleaded games and post-suit damages.

Immersion does not think this case will be more complex than any other typical patent infringement case.

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Valve maintains that if all seven patents remain in the case it may be necessary for the Court to construe more than ten terms. Until the disputes over the pleadings are fully resolved, Valve believes the complexity of this case may be difficult to determine.

2. Discovery Plan

A. Initial Disclosures.

Pursuant to the JSR Order, the parties served their respective Initial Disclosures on August 14, 2023.

B. Subjects, Timing, and Potential Phasing of Discovery.

The parties anticipate conducting discovery regarding the manufacturing of, marketing of and sales of Valve's Accused Instrumentalities, the allegations raised in Immersion's Complaint, the validity and priority of claims of the asserted patents, prior art to the asserted patents, settlements or licenses based on the asserted patents, the value and damages relating to the asserted patents, and other issues relating to the asserted patents and Immersion's claims. Other than the requested departures from the Patent Local Rules regarding certain deadlines (see below), the parties do not believe that there currently are any unusual timing issues related to discovery that need to be addressed in the Court's Scheduling Order. Neither party currently proposes phasing of discovery.

C. Electronically Stored Information.

The parties do not anticipate any unusual issues related to discovery of electronically stored information ("ESI") that would warrant involvement of the Court at this time.

D. Privilege Issues.

The parties do not anticipate any unusual privilege issues that warrant the Court's involvement at this juncture.

E. Limitations on Discovery.

The parties do not presently request any expansion to or reduction of the limitations that currently exist under the rules.

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F. Potential Discovery Related Orders.

The parties are negotiating a Protective Order modifying but consistent with the model order regularly used in this District that includes adequate protections for any production of highly sensitive information and source code.

3. Parties' Views, Proposals, and Agreements Regarding Certain Issues.

A. Prompt Case Resolution.

The parties have had preliminary discussions about resolving this dispute, and will continue to do so as appropriate.

B. Alternative Dispute Resolution.

Immersion maintains that an early deadline for ADR is warranted.

Valve believes that resolution of the issues raised in its motion to dismiss, claim construction, and the exchange of expert reports all could advance the prospect of settlement, and therefore requests that the Court set a deadline of December 13, 2024 for ADR.

C. Related Cases.

There are no related cases.

D. Discovery Management.

The parties will work together cooperatively to streamline discovery and to make a good faith effort to try to resolve any discovery-related disagreements that arise. Appointment of a Discovery Master is not warranted at this time.

E. Anticipated Scope of Discovery.

The parties intend to conduct discovery on issues raised in the Complaint and Valve's forthcoming Answer.

F. Phasing Motions.

The parties do not currently propose any phasing of motion practice.

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G. Preservation of Discoverable Information.

The parties have taken reasonable steps to preserve discoverable information. They do not anticipate a need for court intervention regarding preservation issues at this juncture.

H. Privilege Issues.

All documents that pre-date the filing of the complaint that are withheld from production under a claim of privilege will be identified in a privilege log that is provided to the requesting party.

I. Model Protocol

The parties will work together and endeavor to agree upon an ESI order consistent with the model order regularly used in this District.

J. Alternatives for Discovery of ESI.

The parties will work together and endeavor to agree upon an ESI order consistent with the model order regularly used in this District.

4. Parties' Views, Proposals, and Agreements Regarding Local Patent Rule 110.

A. Any Proposed Modifications of the Deadlines Provided for in the Local Patent Rules ("PAT"), and the Effect of Any Such Modification on the Proposed Date and Time of the Claim Construction Hearing.

The parties jointly propose an extended schedule regarding preliminary infringement contentions and related deadlines. The modified deadlines related to claim construction under the patent local rules are provided below in Section 15 – Proposed Case Schedule.

B. Whether Confidentiality Concerns Affect the Disclosures Contemplated in These Rules and, If so, the Parties' Positions on How They Should Be Addressed.

The source code, certain technical documentation, and certain sales and revenue information may be subject to confidentiality concerns and may take some time for production and review depending on the circumstances surrounding the production and the negotiated terms of the Protective Order.

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C. Whether and When a Tutorial Might Be Scheduled to Assist the Court to Understand the Underlying Technology.

The parties believe a tutorial could be helpful to assist the Court with understanding the underlying technology, and recommends the tutorial take place two (2) to four (4) weeks before the Claim Construction Hearing, per the Court's Standing Order for Patent Cases.

D. Whether Discovery Should Be Allowed Before the Disclosures Required By Local Patent Rule 120

The parties do not believe discovery is necessary prior to the Local Patent Rule 120 disclosures.

E. Motion for Preliminary Injunction or Dispositive Motion Before the Claim Construction Hearing.

Immersion does not currently anticipate any preliminary injunction or dispositive motion practice before the claim construction hearing.

Valve has moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), and Valve's motion is now fully briefed.

F. Discovery Relating to Claim Construction

Immersion anticipates taking discovery on the functionality of certain aspects of Valve's Accused Instrumentalities that are either confidential or not identifiable with publicly available information that may impact claim construction.

Valve contends that the proper construction of the claims of Immersion's patents is independent of how Valve's products are implemented.

G. Whether the Court Should Appoint an Expert to Hear and Make Recommendations on Claim Construction Issues.

The parties do not at this time think the Court will require appointment of an expert to hear and make recommendations on claim construction issues.

H. Nature of Claim Construction Hearing.

The parties agree to confer for the purpose of proposing the nature of the Claim Construction Hearing, as discovery progresses. The parties propose submitting a status report to

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the Court 90 days prior to the scheduled *Markman* hearing to address the format for the *Markman* hearing and to revisit whether the parties believe that a technical tutorial would be helpful to the Court.

5. Bifurcation.

Not applicable.

6. Whether Pretrial Statements and Pretrial Order should be Dispensed With.

The parties do not wish to dispense with pretrial statements or the pretrial order required by Local Rules 16(e), (h), (i), and (k), and 16.1.

7. Other Suggestions for Shortening or Simplifying the Case

The parties also consent and agree, pursuant to Federal Rule of Civil Procedure 5(b)(2)(e) that non-ECF service may be made by electronic mail, with copies sent to all attorneys for the parties served.

8. Trial/Non-Jury.

Jury.

9. Number of Trial Days Required.

Immersion anticipates the trial will require 5-7 days. Valve anticipates that trial will require 5-10 days, assuming the issues to be tried are suitably narrowed before trial.

10. The Names, Addresses, and Telephone Numbers of All Trial Counsel.

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11. Conflict Dates for Trial Counsel.

Immersion's trial counsel has no current trial or other conflicts around the time of the proposed trial ready date. Valve's trial counsel has no current trial or other conflicts around the time of the proposed trial ready date.

12. Status of Service.

All parties have been served.

13. Fed. R. Civ. P. 16 Conference.

A Fed. R. Civ. P. 16 conference is not needed prior to issuance of a case schedule.

14. Dates of Filing of Rule 7.1 Disclosure Statements.

Immersion Corporation filed its Fed. R. Civ. P. 7.1 disclosure statement on May 15, 2023. Defendant Valve Corporation filed its corporate disclosure statement on June 5, 2023.

15. <u>Proposed Case Schedule.</u>

EVENT	DEADLINE
Deadline to join additional parties	September 25, 2023
Deadline for amending pleadings	October 2, 2023
Plaintiff to serve Preliminary Infringement Contentions and Disclosure of Asserted Claims and accompanying file history for each asserted patent (Patent 120)	***October 20, 2023, but Plaintiff may supplement its contentions by October 30, 2023, for the sole purpose of adding source code citations***
Defendant to serve Preliminary Non-Infringement and Invalidity Contentions (PAT 121) and accompanying document production (PAT 122)	***December 8, 2023***
Parties to exchange Proposed Terms and Claim Elements for Construction (PAT 130)	***December 15, 2023***
Parties to exchange Preliminary Claim Constructions and Extrinsic Evidence (PAT 131)	***January 12, 2024***
Parties to file Joint Claim Chart and Prehearing Statement (PAT 132)	***February 23, 2024***
Construction Expert Disclosures, if necessary (PAT 132)	***February 23, 2024***
Completion of claim construction discovery, if necessary (PAT 133)	April 6, 2024
Joint Claim Construction Brief (PAT 134) 1. Plaintiff to serve opening brief 2. Defendant to serve answering brief 3. Plaintiff to serve reply brief 4. Defendant to serve sur-reply brief 5. Parties to file Joint Claim Construction Brief	 1. April 12, 2024 2. April 26, 2024 3. May 24, 2024 4. June 7, 2024 5. June 14, 2024
Tutorial (if necessary) (PAT 132(g))	At least 14 days before claim construction hearing
Claim Construction Hearing Ready Date (PAT 135)	July 12, 2024
Close of fact discovery	August 30, 2024
Parties to exchange Initial Expert Reports on Issues the Party Bears the Burden of Proof on	October 4, 2024
Parties to exchange Rebuttal Expert Reports	November 8, 2024
Close of expert discovery	December 6, 2024

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EVENT	DEADLINE
Parties to file case dispositive motions and/or *Daubert* motions	January 17, 2025
Trial Ready Date	June 9, 2025

16. <u>Certification of Counsel.</u>

Counsel for the parties certify that they have reviewed Judge Lin's Chambers Procedures, the Local Rules, General Orders, and the applicable Electronic Filing Procedures.

17. <u>Certification of Counsel.</u>

Counsel for the parties certify that they have reviewed and complied with Judge Lin's Standing Order Regarding 28 U.S.C. § 455 and Canon 3 of the Code of Conduct for United States Judges.

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DATED: October 18, 2023

Respectfully submitted,

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Attorneys for Defendant Valve Corporation

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2023, I caused the foregoing to be served on all counsel of record via ECF.

/s/Stefan Szpajda
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