

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

OPTIMUM IMAGING TECHNOLOGIES LLC, Plaintiff, v. FUJIFILM CORPORATION, Defendant.	Case No. 4:23-CV-00922-ALM JURY TRIAL DEMANDED
OPTIMUM IMAGING TECHNOLOGIES LLC, Plaintiff, v. NIKON CORPORATION, Defendant.	Case No. 4:23-cv-00923-ALM JURY TRIAL DEMANDED
OPTIMUM IMAGING TECHNOLOGIES LLC, Plaintiff, v. OLYMPUS CORPORATION ET AL., Defendants.	Case No. 4:23-cv-00924-ALM JURY TRIAL DEMANDED
OPTIMUM IMAGING TECHNOLOGIES LLC, Plaintiff, v. SAMSUNG ELECTRONICS CO., LTD., ET AL., Defendants.	Case No. 4:23-cv-00927-ALM JURY TRIAL DEMANDED
OPTIMUM IMAGING TECHNOLOGIES LLC, Plaintiff, v. SONY CORPORATION, Defendant.	Case No. 4:23-cv-00928-ALM JURY TRIAL DEMANDED

JOINT MOTION TO MODIFY SCHEDULING ORDER

Plaintiff Optimum Imaging Technologies LLC (“OIT”) and Defendants Fujifilm Corp., Nikon Corp., Olympus Corp., OM Digital Solutions, Samsung Electronics Co., Ltd., Samsung Electronics Am., Inc., and Sony Corp. (collectively “Defendants”) file this Joint Motion to Modify the Scheduling Order,¹ and would show the Court as follows:

On September 10, 2024, the parties filed a Joint Proposed Schedule.² On October 2, 2024, the Court entered an Order, noting that the “parties may move to enter any agreed-upon modification to the amended schedule as necessary.”³ On October 10, 2024, the Defendants filed an unopposed motion to modify the scheduling order.⁴ On October 11, 2024, the Court granted that unopposed motion. *See supra* n1. The defendants’ motion (*see supra*, n4) contained a typographical error regarding the date for the Final Election of Asserted Prior Art, which carried over to the Court’s Order. The present motion corrects that typographical error and adjusts a limited number of additional deadlines accordingly. The adjustments requested herein do not impact either the November 6, 2025 final pre-trial conference or any of the other pre-trial deadlines in Fall 2025. Under the adjusted schedule requested herein, summary judgment motions will be due on July 11, 2025, such that under Local Rule CV-7(e)-(f), summary judgment briefing will close on August 15, 2025, which is more than 10 weeks before the final pre-trial conference set for November 6, 2025.⁵

¹ The existing Scheduling Orders are: 4:23-cv-00928-ALM (Dkt. 46 as modified by Dkts. 52, 62); 4:23-cv-00923-ALM (Dkt. 37 as modified by Dkts. 43, 48); 4:23-cv-00924-ALM (Dkt. 41 as modified by Dkts. 48, 51); 4:23-cv-00927-ALM (Dkt. 53 as modified by Dkts. 60, 72); 4:23-cv-00922-ALM (Dkt. 41 as modified by Dkts. 48, 55).

² 4:23-cv-00928-ALM (Dkt. 31); 4:23-cv-00923-ALM (Dkt. 27); 4:23-cv-00924-ALM (Dkt. 29); 4:23-cv-00927-ALM (Dkt. 41); 4:23-cv-00922-ALM (Dkt. 31).

³ 4:23-cv-00928-ALM (Dkt. 45); 4:23-cv-00923-ALM (Dkt. 36); 4:23-cv-00924-ALM (Dkt. 40); 4:23-cv-00927-ALM (Dkt. 52); 4:23-cv-00922-ALM (Dkt. 40).

⁴ 4:23-cv-00928-ALM (Dkt. 51); 4:23-cv-00923-ALM (Dkt. 42); 4:23-cv-00924-ALM (Dkt. 47); 4:23-cv-00927-ALM (Dkt. 58); 4:23-cv-00922-ALM (Dkt. 47).

⁵ As discussed during the hearing on September 19, 2024, Plaintiff Optimum Imaging Technologies has a conflict with the pre-trial conference as Plaintiff’s lead counsel and other attorneys are

The parties have met and conferred on the instant motion, and this request is made jointly and not for purposes of delay.

The proposed changes to the Scheduling Order are reflected below.

Event	Current Deadline	Amended Deadline
P.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions (and P.R. 3-2 document production) to be served.	September 27, 2024	
Deadline to add parties.	October 24, 2024	
Source code production under P.R. 3-1(g).	December 4, 2024	
Parties to exchange proposed terms for construction and identify any claim element governed by 35 U.S.C. § 112, ¶ 6 (P.R. 4-1).	December 9, 2024	
P.R. 3-3 Invalidity Contentions (and P.R. 3-4 document production) to be served. To extent not already required to be disclosed, exchange Mandatory Disclosures on all issues, including damages. Privilege Logs to be exchanged by parties (or a letter to the Court stating that there are no disputes as to claims of privileged documents).	December 4, 2024	
Parties to exchange preliminary proposed claim construction and extrinsic evidence supporting same (P.R. 4-2).	December 20, 2024	
Parties' final amended pleadings. (A motion for leave to amend is required.)	December 19, 2024	
Joint Claim Construction and Prehearing Statement to be filed (P.R. 4-3). Provide an estimate of how many pages are needed to brief the disputed claims.	January 10, 2025	
Response to amended pleadings.	January 9, 2025	

currently scheduled for trial from October 27, 2025 to November 11, 2025 in the Northern District of California.

Event	Current Deadline	Amended Deadline
Completion date for discovery on claim construction (P.R. 4-4). Plaintiff shall serve a Preliminary Election of Asserted Claims, which shall assert no more than ten claims from each patent and not more than a total of 32 claims.	January 21, 2025	
Opening claim construction brief (P.R.4-5(a)).	February 6, 2025	
Submit technology synopsis (both hard copy and disk).	February 20, 2025	
Responsive claim construction brief (P.R. 4-5(b)).	February 27, 2025	
Defendants shall serve a Preliminary Election of Asserted Prior Art, which shall assert no more than twelve prior art references against each patent and not more than a total of 40 references	February 13, 2025	February 27, 2025
Reply claim construction brief (P.R. 4-5(c)).	March 13, 2025	
Parties to file joint claim construction and chart (P.R. 4-5(d)). Parties shall work together to agree on as many claim terms as possible.	March 17, 2025	
Claim construction hearing at 9:00 am at the Paul Brown United States Courthouse, 101 E. Pecan Street, Sherman, Texas.	March 27, 2025	
Deadline for Initial Mandatory Disclosure of all persons, documents, data compilations, and tangible things, which are relevant to a claim or defense of any party and which has not previously been disclosed. This deadline is not an extension of earlier deadlines set out in this court's order or that Patent Rules, nor an excuse to delay disclosure of information. It is a catchall deadline for provision of all remaining information that may be relevant to a claim or defense of any party at trial.	April 18, 2025	
Plaintiff to serve a Final Election of Asserted Claims, which shall identify no more than five asserted claims per patent from among the ten previously identified claims and no more than a total of 16 claims.	April 18, 2025	

Event	Current Deadline	Amended Deadline
[Fact] Discovery deadline. All discovery must be served in time to be completed by this date.	April 18, 2025	
Defendants shall serve a Final Election of Asserted Prior Art, which shall identify no more than six asserted prior art references per patent from among the twelve prior art references previously identified for that particular patent and no more than a total of 20 references. For purposes of this Final Election of Asserted Prior Art, each obviousness combination counts as a separate prior art reference.	April 18, 2025	May 16, 2025
Parties with burden of proof to designate Expert Witnesses other than claims construction experts and provide their expert witness reports, to include for ALL experts all information set out in Rule 26(2)(B). Burden of Proof Expert Reports Such objections and motions are limited to ten pages.	April 25, 2025	May 16, 2025
<i>Daubert</i> Motion on Opening Expert Reports.	May 16, 2025	June 13, 2025
Comply with P.R. 3-7 on designation of willfulness opinions	May 2, 2025	
Parties designate expert witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness report, to include for ALL experts all information set out in Rule 26(2)(B). Rebuttal Expert Reports	May 23, 2025	June 13, 2025
[Expert] Discovery deadline. All discovery must be served in time to be completed by this date.	May 30, 2025	June 27, 2025

Event	Current Deadline	Amended Deadline
Deadline to file dispositive motions and any other motions that may require a hearing. Regardless of how many dispositive motions a party files, each party is limited to a total of sixty pages for such motions. Each individual motion shall comply with Local Rules CV-7. <i>Daubert</i> Motion on Rebuttal Expert Reports. Responses to motions shall be due in accordance with Local Rule CV-7(e).	June 6, 2025	July 11, 2025
Mediation deadline.	30 days after entry of the claim construction order	
Notice of intent to offer certified records.	September 19, 2025	
Counsel and unrepresented parties are each responsible for contacting opposing counsel and unrepresented parties to determine how they will prepare the Joint Final Pretrial Order (See www.txed.uscourts.gov) and Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in nonjury cases)).	September 19, 2025	
Motions <i>in limine</i> due. File Joint Final Pretrial Order (See www.txed.uscourts.gov). Exchange Exhibits and deliver copies to the court. At this date, all that is required to be submitted to the court is a hyperlinked exhibit list on disk (2 copies) and no hard copies. If Parties will be requesting daily copy of the transcript during trial, they must notify the Court's court reporter, Chris Bickham, Chris_Bickham@txed.uscourts.gov by this date.	September 29, 2025	

Event	Current Deadline	Amended Deadline
Deposition Designations due. Each party who proposes to offer a deposition shall serve on all other parties a disclosure identifying the line and page numbers to be offered. All other parties will have seven calendar days to serve a response with any objections and requesting cross examination line and page numbers to be included. Counsel must consult on any objections and only those that cannot be resolved shall be presented to the court. The party who served the initial Video Deposition Designation is responsible for preparation of the final edited video in accordance with all parties' designations and the court's rulings on objections.	October 1, 2025	
Responses to motions <i>in limine</i> due. Responses to Deposition Designations due. File objections to witnesses, depositions extracts, and exhibits, listed in pre-trial order. This does not extend the deadline to object to expert witnesses. If numerous objections are filed, the court may set a hearing prior to docket call. File Proposed Jury Instructions and Form of Verdict (or Proposed Findings of Fact and Conclusions of Law).	October 17, 2025	
Final Pretrial Conference at 9:00 a.m. at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas.	November 6, 2025 ⁶	
Jury selection and trial at 10:00 a.m. at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas.	TBD	

⁶ OIT requests the Court take note that as raised during the September 19, 2024 Rule 16 Management Conference, OIT's counsel, including lead counsel in this matter, have a conflict of a previously scheduled trial on November 6, 2025.

Date: February 12, 2025

Respectfully submitted,

/s/ Ronald Wielkopolski

/s/ Michael Rader

Robert M. Harkins
CA Bar No. 179525
Cherian LLP
2001 Addison St., Suite 275
Berkeley, CA 94704
bobh@cherianllp.com
Telephone: (510) 944-0190

Deron R. Dacus (Texas Bar No. 00790553)
THE DACUS FIRM, P.C.
821 E SE Loop 323, Suite 430
Tyler, Texas 75701
903.705.1117 Phone
903.581.2543 Fax
ddacus@dacusfirm.com

Thomas M. Dunham
DC Bar No. 448407
Ronald Wielkopolski
DC Bar No. 1013586
Michael Woods
DC Bar No. 975433
Cherian LLP
1901 L St. NW, Suite 700
Washington, DC 20036
tomd@cherianllp.com
ronw@cherianllp.com
michaelw@cherianllp.com
Telephone: (202) 838-1560

Michael N. Rader (admitted *pro hac vice*)
WOLF, GREENFIELD & SACKS, P.C.
605 Third Avenue, 25th Floor
New York, NY 10158
617.646.8000 Phone
617.646.8646 Fax
mrader@wolfgreenfield.com

Hunter S. Palmer
TX Bar No. 24080748
Cherian LLP
8350 N. Central Expressway, Suite 1900
Dallas, TX 75206
hunterp@cherianllp.com
Telephone: (945) 205-0305

Hunter Keeton
Charles T. Steenburg (admitted *pro hac vice*)
Arden E. Bonzo (admitted *pro hac vice*)
Jie Xiang (admitted *pro hac vice*)
Marie McKiernan (admitted *pro hac vice*)
Emma Frank (admitted *pro hac vice*)
Kevin Li (admitted *pro hac vice*)
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210
617.646.8000 Phone
617.646.8646 Fax
hkeeton@wolfgreenfield.com
csteenburg@wolfgreenfield.com
abonzo@wolfgreenfield.com
jxiang@wolfgreenfield.com
mmckiernan@wolfgreenfield.com
efrank@wolfgreenfield.com
kli@wolfgreenfield.com

E. Leon Carter
lcarter@carterarnett.com
Texas Bar No. 00790361
Scott W. Breedlove
sbreedlove@carterarnett.com
Texas State Bar No. 00790361
Monica Litle Goff
mgoff@carterarnett.com
Texas State Bar No. 24102101
Alexis Ritzer

**ATTORNEYS FOR DEFENDANT SONY
CORPORATION**

aritzer@carterarnett.com
Texas State Bar No. 24115116
CARTER ARNETT PLLC
8150 N. Central Expressway, Suite 500
Dallas, Texas 75206
Telephone No. (214) 550-8188
Facsimile No. (214) 550-8185

Roger D. Sanders
rsanders@somlaw.net
Elvin E. Smith III
elvinsmith@siebman.com
SIEBMAN LAW, LLP
Paul Brown Federal Courthouse Square
300 North Travis St. Sherman, TX 75090
Telephone No. (903) 870-0070
Facsimile No. (903) 870-0066

J. Mark Mann
State Bar No. 12926150
mark@themannfirm.com
G. Blake Thompson
State Bar no. 24042033
blake@themannfirm.com
Mann Tindel Thompson
11 E. Line Street, Suite 304
Tyler, TX 75702
Office 903-657-8540

ATTORNEYS FOR PLAINTIFF
OPTIMUM IMAGING
TECHNOLOGIES LLC

/s/ Julie Bookbinder
Richard Edlin
New York Bar No. 2051696
Email: edlinr@gtlaw.com
Thomas D. Pease
New York Bar No. 2671741
Email: thomas.pease@gtlaw.com
Julie P. Bookbinder
New York Bar No. 4375259
Email: bookbinderj@gtlaw.com
Jeffrey R. Colin
New York Bar No. 4758272
Email: colinj@gtlaw.com
Brian J. Prew (pro hac vice)
New York Bar No. 4713467
Email: prewb@gtlaw.com
Wen Xue (pro hac vice)
New York Bar No. 5598008
Email: xuew@gtlaw.com
Kathryn E. Albanese
New York Bar No. 5748033
Email: katie.albanese@gtlaw.com
Mark Bhuptani
New York Bar No. 5926183
Email: mark.bhuptani@gtlaw.com
GREENBERG TRAURIG LLP
One Vanderbilt Avenue
New York, NY 10017
Telephone: (212) 801-9200
Facsimile: (212) 801-6400

Andrew R. Sommer
Virginia Bar No. 70304
Email: sommera@gtlaw.com
GREENBERG TRAURIG LLP
1750 Tysons Blvd., Suite 1000
McLean, VA 22102
Telephone: (703) 749-1300
Facsimile: (703) 749-1301

Melissa R. Smith
Texas Bar No. 24001351
melissa@gillamsmithlaw.com
GILLAM & SMITH, LLP

303 South Washington Avenue
Marshall, Texas 75670
Tel: (903) 934-8450
Fax: (903) 934-9257

***ATTORNEYS FOR DEFENDANTS
SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA, INC.***

/s/ Steven J. Routh

Steven J. Routh (DC Bar No. 376068)
Sten Jensen (DC Bar No. 443300)
T. Vann Pearce, Jr.

**ORRICK, HERRINGTON & SUTCLIFFE
LLP**

2100 Pennsylvania Avenue NW
Washington, D.C. 20037
Telephone: (202) 339-8400
Facsimile: (202) 339-8500
Email: srouth@orrick.com

Eric H. Findlay (TX Bar No. 00789886)

FINDLAY CRAFT, P.C.

7270 Crosswater Avenue, Suite B
Tyler, TX 75703
Tel: (903)534-1100
Fax: (903) 534-1137
Email: efindlay@findlaycraft.com

***ATTORNEYS FOR DEFENDANT FUJIFILM
CORPORATION***

/s/ Marc S. Blackman

Keith B. Davis (State Bar No. 24037895)
Email: kbdavis@jonesday.com

JONES DAY

2727 N. Harwood St., Suite 500
Dallas, TX 75201
Telephone: (214) 220-3939

Marc S. Blackman (Illinois Bar No. 6236719)
Email: msblackman@jonesday.com

JONES DAY

110 North Wacker Drive, Suite 4800

Chicago, Illinois 60606
Telephone: (312) 782-3939

John R. O'Donnell (California Bar No. 318054)
Email: jodonnell@jonesday.com

JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071
Telephone: (213) 489-3939

***ATTORNEYS FOR DEFENDANT
NIKON CORPORATION***

/s/ Amanda S. Williamson
Amanda S. Williamson (admitted *pro hac vice*)
Illinois Bar No. 6280051
Karon Fowler
California Bar No. 308145
Liya Levin (admitted *pro hac vice*)
Illinois Bar No. 6346018
MORGAN, LEWIS & BOCKIUS LLP
110 N. Wacker Drive, Suite 2800
Chicago, Illinois 60606
Telephone: 312.324.1000
Facsimile: 312.324.1001
amanda.williamson@morganlewis.com
karon.fowler@morganlewis.com
liya.levin@morganlewis.com

Melissa M. Story
Texas Bar No. 24116816
MORGAN, LEWIS & BOCKIUS LLP
1000 Louisiana St., Suite 4000
Houston, TX 77002-5006
Telephone: 713.890.5151
Facsimile: 713.890.5001
melissa.story@morganlewis.com

***ATTORNEYS FOR DEFENDANTS
OLYMPUS CORPORATION AND OM
DIGITAL SOLUTIONS***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that counsel of record who are deemed to have consented to electronic services are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on the 11th day of February, 2025.

/s/ Michael Rader

Michael N. Rader

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for the parties met and conferred and jointly file this motion.

/s/ Michael Rader

Michael N. Rader