UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

PROXENSE, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 6:24-cv-00143

JURY TRIAL REQUESTED

AGREED JOINT MOTION TO AMEND SCHEDULING ORDER

Plaintiff Proxense, LLC ("Proxense") and Defendant Apple Inc. ("Apple") hereby move this Court to amend the Scheduling Order to extend the deadline for Apple to file its opening claim construction brief by six weeks from September 24, 2024 to November 5, 2024 and extend all future case deadlines consistent with the six-week extension, including the *Markman* hearing, pretrial conference, and trial dates as set forth in the proposed amended scheduling order attached to this motion.

Good cause exists for the proposed extension because Proxense intends to move to amend its complaint to assert a new patent[1] and Apple has agreed to not oppose that motion to amend contingent on the Court extending the current scheduling deadlines. The extension will minimize the prejudice of asserting a new patent against Apple at this stage in the proceedings by allowing for additional time to evaluate claim construction, noninfringement, and invalidity issues for the newly asserted patent. Given the impending claim constructing briefing deadlines,

[1] Specifically, Proxense intends to dismiss, with prejudice, all allegations that Apple infringes U.S. Patent No. 9,049,188 and substitute in allegations that Apple infringes U.S. Patent No. 9,679,289, from the same family of patents.

this joint request will promote judicial efficiency by requiring only one *Markman* hearing, rather than multiple rounds of claim construction briefing and a second *Markman* hearing. This extension request is not being made to unduly delay the proceedings and reflects a compressed schedule for Apple to investigate and conduct pre-*Markman* activities for the newly asserted patent. Accordingly, the parties respectfully request that the Court enter the proposed First Amended Scheduling Order attached to this motion.

Dated: September 26, 2024

Respectfully submitted,

/s/ Michael Saulnier

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COUNSEL FOR PLAINTIFF PROXENSE, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 26, 2024, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(b)(1). Any other counsel of record will be served by a facsimile and/or first-class mail.

/s/Michael Saulnier
Michael Saulnier

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

PROXENSE, LLC,

Plaintiff,

v.

APPLE INC.

Defendant.

Civil Action No. 6:24-cv-00143-ADA

JURY TRIAL REQUESTED

AMENDED SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16, the Court hereby ORDERS that the following schedule will govern deadlines up to and including the trial of this matter.

Current Deadline	New Deadline	Item
	10/15/24	Parties exchange claim terms and proposed claim constructions as to U.S. Patent No. 9,697,289 ("the '289 Patent").
	10/18/24	Parties disclose extrinsic evidence as to the '289 Patent. 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.[1] 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.
9/17/24	10/22/24	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.

[1] Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

Current Deadline	New Deadline	Item
9/24/24	11/5/24	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
10/15/24	11/27/24	Plaintiff files Responsive claim construction brief.
10/29/24	12/11/24	Defendant files Reply claim construction brief.
10/29/24	12/10/24	Parties to jointly email the law clerks (*see* OGP at 1) to confirm their *Markman* date and to notify if any venue or jurisdictional motions remain unripe for resolution.
11/12/24	12/24/24	Plaintiff files a Sur-Reply claim construction brief.
11/15/24	12/30/24	Parties submit Joint Claim Construction Statement and email the law clerks an editable copy. *See* General Issues Note #9 regarding providing copies of the briefing to the Court and the technical advisor (if appointed).
11/15/24	12/27/24	Parties submit optional technical tutorials to the Court and technical advisor (if appointed).
11/26/24	1/7/25	*Markman* Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the *Markman* hearing approaches.
11/27/24	1/8/25	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
1/7/25	2/18/25	Deadline to add parties.
1/21/25	3/4/25	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

Current Deadline	New Deadline	Item
		relieve the parties of their obligation to seasonably amend if new information is identified after initial contentions.
3/18/25	4/29/25	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
5/27/25	7/8/25	Deadline for the 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.
6/24/25	8/5/25	Close of Fact Discovery.
7/1/25	8/12/25	Opening Expert Reports.
7/29/25	9/9/25	Rebuttal Expert Reports.
8/19/25	9/30/25	Close of Expert Discovery.
8/26/25	10/7/25	Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If 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.
9/2/25	10/14/25	Dispositive motion deadline and *Daubert* motion deadline. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical advisor (if appointed). Deadline for parties desiring to consent to trial before the magistrate judge to submit Form AO 85, "Notice, Consent, And Reference Of A Civil Action To A Magistrate Judge," available at https://www.uscourts.gov/forms/civil-forms/notice-consent-and-reference-civil-action-magistrate- judge.

Current Deadline	New Deadline	Item
9/16/25	10/28/25	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, deposition designations).
9/30/25	11/10/25	Serve objections to pretrial disclosures/rebuttal disclosures.
10/7/25	11/17/25	Serve objections to rebuttal disclosures; file motions *in limine.*
10/14/25	11/24/25	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, deposition designations); file oppositions to motions *in limine* From this date onwards, the parties are obligated to notify the Court of any changes to the asserted patents or claims. Such notification shall be filed on the docket within seven (7) days of the change and shall include a complete listing of all asserted patents and claims. If a change to the asserted patents or claims requires leave of court (for example, if a party is moving for leave to assert additional claims), notification shall not be required until the Court grants leave, at which point the notification must be filed within seven (7) days.
10/21/25	12/1/25	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 said 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 *in limine*.
10/28/25	12/8/25	Deadline to meet and confer regarding remaining objections and disputes on motions *in limine*.
10/13/25	11/24/25	Parties to jointly email the Court's law clerk (*See* OGP at 1) to confirm their pretrial conference and trial dates.
10/30/25	12/11/25	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions *in limine.*
11/4/25	12/15/25	Final Pretrial Conference. Held in person unless otherwise requested.

Current Deadline	New Deadline	Item
12/8/25	1/19/26	Jury Selection/Trial.

SIGNED this _____ day of September, 2024.

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HONORABLE ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE