

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

KP Innovations 2, LLC

Plaintiff,

v.

Samsung Electronics Co., Ltd. And Samsung
Electronics America Inc.,

Defendant.

Civil Action File No. 1:24-CV-00170-DII

JURY TRIAL DEMANDED

AGREED SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16, the following Agreed Scheduling Order is issued by the Court:

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 on or before **July 20, 2025**.
2. The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before **October 11, 2024**, and each opposing party shall respond, in writing, on or before **November 1, 2024**. All offers of settlement are to be private, not filed. The

parties are ordered to retain the written offers of settlement and responses so the Court may use them in assessing attorney's fees and costs at the conclusion of the trial.

3. Each party shall complete and file the attached "Notice Concerning Reference to United States Magistrate Judge" on or before **September 20, 2024**.
4. On or before **September 24, 2024**, Plaintiff shall serve preliminary¹ infringement contentions setting forth the following information: claim charts identifying where in the accused product(s) each element of the asserted claim(s) are found; the earliest priority date (i.e. the earliest date of invention) that Plaintiff contends each asserted claim is entitled to and produce all documents evidencing conception and reduction to practice for each claimed invention and a copy of the file history for each patent in suit.
5. On or before **January 20, 2025**, Defendant shall serve preliminary invalidity contentions in the form of (1) charts setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under Section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under Section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s). To the extent that source code is requested by the

¹ The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

Plaintiff and to the extent it exists in Samsung's possession, custody or control, Samsung shall produce any relevant, responsive source code after fact discovery opens, subject to and consistent with local and Federal rules.

6. Parties shall exchange claim terms for construction on or before **December 13, 2024**. Parties shall exchange proposed claim constructions on or before **January 6, 2025**.
7. Parties shall disclose extrinsic evidence for claim construction on or before **January 13, 2025**. 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.² 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.
8. On or before **January 20, 2025**, the parties shall meet and confer to narrow the claim terms and/or issues in dispute for claim construction.
9. Parties shall submit optional technical tutorials, if any, to the Court and technical advisor (if appointed) on or before **February 21, 2025**.
10. Plaintiff shall file an Opening claim construction brief, including any declarations of expert witnesses in support of claim construction on or before **February 21, 2025**. The page limit for the Opening claim construction brief shall be 30 pages, exclusive of the caption, signature block, any certificate, and exhibits.

² Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

11. Defendant shall file a Responsive claim construction brief, including any arguments that claim terms are indefinite and any declarations of expert witnesses in support of claim construction, on or before **March 14, 2025**. The page limit for the Responsive claim construction brief shall be 30 pages, exclusive of the caption, signature block, any certificate, and exhibits.
12. Plaintiff shall file a Reply claim construction brief on or before **March 28, 2025**. The page limit for the Reply claim construction brief shall be 10 pages, exclusive of the caption, signature block, any certificate, and exhibits.
13. Defendant shall file a Sur-Reply claim construction brief only on issues first raised in Plaintiff's Reply or before **April 11, 2025**. The page limit for the Sur-Reply claim construction brief shall be 10 pages, exclusive of the caption, signature block, any certificate, and exhibits.
14. Parties shall submit a Joint Claim Construction Statement on or before **April 15, 2025**.
15. On **[[DATE TO BE ENTERED BY COURT: The parties jointly propose a hearing on April 25, 2025]]**, the Court shall hold a claim construction hearing, or on a date at the Court's convenience.
16. Fact discovery opens on **May 16, 2025**, with one exception: discovery of documents and things from third parties is open upon completion of the parties' meet and confer activities as required by Rule 26(f). The deadline to serve Initial Disclosures per Rule 26(a) is on or before **May 16, 2025**.
17. Plaintiff shall serve Final Infringement Contentions on or before **July 18, 2025**. After this date, leave of Court based on good cause is required for any amendment to infringement contentions, except Plaintiff can amend its final infringement contentions as a matter or

right within thirty (30) days after receipt of the Court's claim construction order, if the claim construction order is issued after June 18, 2025. This deadline does not relieve the parties of their obligation to seasonably amend if new information is identified after initial contentions.

18. The parties shall meet and confer to narrow the number of claims asserted and prior art references at issue on or before January 16, 2026.
19. Defendant shall serve Final Invalidity Contentions on or before **August 15, 2025**. After this date, leave of Court based on good cause is required for any amendment to invalidity contentions, except Defendant can amend its final invalidity contentions as a matter of right within thirty (30) days after receipt of the Court's claim construction order, if the claim construction order is issued after July 18, 2025, and within (30) days after receipt of Plaintiff's Final Infringement Contentions. This deadline does not relieve the parties of their obligation to seasonably amend if new information is identified after initial contentions.
20. The parties shall file all motions to amend or supplement pleadings or to join additional parties on or before **August 15, 2025**.
21. The parties shall complete all fact discovery on or before **January 13, 2026**.
22. All parties asserting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) (i.e., burden of proof expert reports) on or before **February 13, 2026**. Parties resisting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) (i.e., rebuttal expert reports) on or before **March 13, 2026**.

23. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion specifically stating the basis for the objection and identifying the objectionable testimony, **by the deadline for dispositive motions.**
24. The parties shall complete all expert discovery on or before **April 3, 2026.**
25. All dispositive motions and *Daubert* motions shall be filed on or before **April 28, 2026** and shall be limited to 20 pages each, with no limits to the number of *Daubert* motions a party can bring. Responses shall be filed and served on all other parties not later than **14 days** after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than **7 days** after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.
26. Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations) on or before **June 5, 2026.** Serve objections to pretrial disclosures/rebuttal disclosures on or before **June 19, 2026.** Serve objections to rebuttal disclosures on or before **June 26, 2026.**
27. File Motions *in limine* on or before **June 26, 2026.**
28. File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions *in limine* on or before **July 15, 2026.**
29. Meet and confer to resolve disputes on motions *in limine* and outstanding objections on or before **July 20, 2026.**
30. File joint notice identifying remaining objections to pretrial disclosures and disputes on motions *in limine* on or before **July 24, 2026.**

31. The Court will set this case for final pretrial conference at a later time. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference. **The parties shall not complete the following paragraph. It will be completed by the Court at the initial pretrial conference to be scheduled by the Court.**
32. This case is set for jury trial commencing at 9:30 a.m. on September 14, 2026.
33. The parties may modify the deadlines in this Order by agreement, with the exception of the dispositive motions deadline and the trial date. The Court may impose sanctions under Federal Rule of Civil Procedure 16(f) if the parties do not make timely submissions under this Order.

SIGNED on _____, 2024.

September 18

ROBERT PITMAN

UNITED STATES DISTRICT JUDGE