

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DAEDALUS PRIME LLC,

Plaintiff,

v.

MEDIATEK INC.,

Defendant.

Civil Action No. 2:24-cv-235-JRG

JOINT MOTION FOR ENTRY OF DOCKET CONTROL ORDER (DISPUTED)

Pursuant to the Court’s Order issued in the Case Management Conference and the Court’s Order granting the parties’ Joint Motion for Extension of Time to File Proposed Discovery order and Docket Control Order (Dkt. No. 24), Plaintiff Daedalus Prime LLC (“Daedalus Prime” or “Plaintiff”) and Defendant MediaTek Inc. (“Defendant” or “MediaTek”) jointly request entry of a Docket Control Order, the form of which is attached hereto.

After multiple meet-and-confers, the parties were unable to resolve the following dispute regarding the proposed Docket Control Order:

I. Deadline For P.R. 3-3 & 3-4 Compliance

Daedalus Prime’s Position. Daedalus Prime proposes the deadline for compliance with P.R. 3-3 and 3-4 in the Court’s Model Docket Control Order—6 weeks after the September 18, 2024 scheduling conference in this action, *i.e.*, October 30, 2024. Daedalus Prime timely served its infringement contentions on September 4, 2024 and as a result of MediaTek’s agreement to accept service, the Federal Rules provided them 90 additional days to respond to the complaint. Daedalus Prime’s proposed deadline is 175 days after MediaTek accepted service of the

complaint¹—more than enough time to collect the core technical materials required by P.R. 3-3(a), search for prior art, and prepare invalidity contentions.

MediaTek's proposal would double the time (from 6 weeks after infringement contentions to 12 weeks) for it to comply with P.R. 3-3 and 3-4. There is no basis for such a generous extension, particularly where MediaTek has had 90 additional days to prepare its invalidity case, collect documents, and respond to the complaint. As a result, Daedalus Prime submits that the Court's proposed deadlines are appropriate.

Alternatively, should the Court be inclined to grant an extension of MediaTek's deadline to serve invalidity contentions, Daedalus Prime submits that MediaTek should still be required to produce core technical materials for the accused products by October 30, 2024. In an effort to compromise, Daedalus Prime made a similar proposal to MediaTek, offering to extend the deadline for MediaTek to produce prior art and serve invalidity contentions to December 11, 2024 so long as MediaTek timely produced core technical materials for the accused products on October 30, 2024. MediaTek refused that offer. Although Daedalus Prime submits that no extension of these deadlines is necessary, should the Court find otherwise, Daedalus Prime submits that its proposal represents a more appropriate resolution to this issue.

MediaTek argues that it did not know the full scope of accused products until Daedalus Prime served its infringement contentions. That argument is, at best, misleading. Daedalus Prime's complaint accused "MediaTek products that include processors based on the ARMv8.2 architecture, as well as subsequent revisions to the ARM architecture such as the ARMv9 architecture," (Dkt. 1 ¶ 51) and all but a few of the accused products in Daedalus Prime's

¹ MediaTek accepted service of the complaint on May 8, 2024. *See* Dkt. No. 7 (Waiver of Service of Summons).

infringement contentions are based on the ARMv8.2 or ARMv9 architecture. Daedalus Prime identified those products based on information on MediaTek's public website; MediaTek certainly could have determined which of its products include processors based on ARMv8.2 and ARMv9 in the 119 days between the time it accepted service of the complaint (on May 8, 2024) and the service of Daedalus Prime's infringement contentions (on September 4, 2024).

MediaTek also argues that the number of asserted claims supports its proposed extension, but that issue relates only to invalidity contentions, not the P.R. 3-4(a) production. As noted above, Daedalus Prime offered to extend the deadline for invalidity contentions to MediaTek's proposed date so long as MediaTek completed its P.R. 3-4(a) production on October 30 and MediaTek did not agree. The number of asserted claims is no basis for extending the deadline for MediaTek's P.R. 3-4(a) production.

MediaTek's Position. Daedalus brought suit on eight patents and for the first time on September 4, 2024 identified the *100* claims that it asserts against over *80* MediaTek products. While MediaTek's prior art assessment and document collection processes are underway, in view of the unusually large scope of this case MediaTek seeks six additional weeks (to December 11, 2024) to map the prior art to the asserted claims, investigate potential representative products, and compile its core technical production.

The scope of this case is solely in Daedalus's control and it has not explained how allowing MediaTek an extra six weeks to conduct the analysis and investigation necessitated by Daedalus's voluminous theory of the case might somehow be prejudicial. This is especially true where the next deadline in the case (P.R. 4-1) is set *over five months away* at the end of March, 2025.

During the Parties' discussions Daedalus could only point to the extension to MediaTek's response to the Complaint, in exchange for which MediaTek agreed to waive service rather than

forcing Daedalus to go through more onerous international service mechanisms. But it was not until Daedalus actually identified the *one hundred* asserted claims just over a month ago that MediaTek was able to fully understand the scope of prior art at issue. In view of the very large number of claims and products at issue, MediaTek submits that an additional six weeks (to December 11, 2024) for it to prepare its P.R. 3-3 and 3-4 disclosures is justified and appropriate.

Dated: October 9, 2024

Respectfully submitted,
By: *Jason Choy*

Jason Choy

Garland Stephens
LEAD ATTORNEY
Texas Bar No. 24053910
garland@bluepeak.law
John Brinkmann
Texas Bar No. 24068091
john@bluepeak.law
Richard Koehl
Texas Bar No. 24115754
richard@bluepeak.law
Robert Magee
California Bar No. 271443 (to be admitted
pro hac vice)
robert@bluepeak.law
Heng Gong
New York Bar No. 4930509 (to be admitted
pro hac vice)
heng@bluepeak.law
Jason Choy (to be admitted pro hac vice)
choy@bluepeak.law
BLUE PEAK LAW GROUP LLP
3139 W Holcombe Blvd PMB 8160
Houston TX 77025-1533
(832) 387-7696

Of Counsel:
MILLER FAIR HENRY, PLLC
Claire Abernathy Henry
Texas State Bar No. 24053063
claire@millerfairhenry.com
Charles Everingham IV

Texas Bar No. 00787447
chad@ millerfairhenry.com
Andrea L. Fair
Texas State Bar No. 24078488
E-mail: andrea@ millerfairhenry.com
1507 Bill Owens Pkwy
Longview, Texas 75604
Phone: (903) 757-6400
Fax: (903) 757-2323

Attorneys for Plaintiff
Daedalus Prime LLC

/s/ Matthew C. Berntsen
Melissa R. Smith (TX Bar No. 24001351)\
melissa@gillamsmithlaw.com
GILLAM & SMITH LLP
303 South Washington Avenue
Marshall, Texas 75670
Phone: 903.934.8450
Fax: 903.934.9257

Gary C. Ma (*pro hac vice* pending)
**Finnegan, Henderson, Farabow, Garrett &
Dunner LLP**
Stanford Research Park
3300 Hillview Avenue
Palo Alto, CA 94304-1203
Telephone: (650) 849-6600
Facsimile: (650) 849-6666

Frank DeCosta (DC Bar No. 455746)
J. Preston Long (*pro hac vice* pending)
**Finnegan, Henderson, Farabow, Garrett &
Dunner LLP**
901 New York Avenue, NW
Washington, Dc 20001
Telephone: (202) 408-4000
Facsimile: (202) 408-4400

Matthew C. Berntsen (MA Bar No. 678533)
**Finnegan, Henderson, Farabow, Garrett &
Dunner LLP**
Two Seaport Lane

Boston, MA 02210-2001
Telephone: (617) 646-1600
Email: mtk-daedalus-us@finnegan.com

Attorneys for Defendant
MediaTek Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on October 9, 2024, the foregoing document was filed electronically in compliance with Local Rule CV-5(a), which will provide notice of the same to all counsel of record.

/s/ Charles Everingham IV
Charles Everingham IV

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies pursuant to Local Rule CV-7(h) that this motion is submitted jointly even though there are disputed issues.

/s/ Charles Everingham IV
Charles Everingham IV

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

DAEDALUS PRIME LLC

v.

MEDIATEK INC.

§
§
§
§
§

Case No. 2:24-cv-235-JRG

DOCKET CONTROL ORDER

In accordance with the scheduling conference held in this case, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

January 26, 2026	*Jury Selection – 9:00 a.m. in Marshall, Texas
7 days before Jury Selection	*Defendant to disclose final invalidity theories, final prior art references/combinations, and final equitable defenses with notice of the same filed with the Court. ²
10 days before Jury Selection	*Plaintiff to disclose final election of Asserted Claims with notice of the same filed with the Court. ³
December 23, 2025	* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. ⁴
To be set by the Court at its convenience on or about December 22, 2025	*Pretrial Conference – 9a.m. in Marshall, Texas before Judge Rodney Gilstrap

² The proposed DCO shall include this specific deadline. The deadline shall read, “7 days before Jury Selection,” and shall not include a specific date.

³ Given the Court’s past experiences with litigants dropping claims and defenses during or on the eve of trial, the Court is of the opinion that these additional deadlines are necessary. The proposed DCO shall include this specific deadline. The deadline shall read, “10 days before Jury Selection,” and shall not include a specific date.

⁴ The Parties are referred to the Court’s Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

December 17, 2025	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i>. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
December 15, 2025	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
December 15, 2025	*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 e-mail the Court Reporter, Shawn McRoberts, at shawn_microberts@txed.uscourts.gov.
December 3, 2025	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
November 25, 2025	Serve Objections to Rebuttal Pretrial Disclosures
November 20, 2025	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
November 6, 2025	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
October 30, 2025	*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order.⁵ Motions for Summary Judgment shall comply with Local Rule CV-56.

⁵ The parties are directed to Local Rule CV-7(d), which provides in part that “[a] party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.”

October 16, 2025	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions) No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
October 16, 2025	*File Dispositive Motions No dispositive motion may be filed after this date without leave of the Court. Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
October 9, 2025	Deadline to Complete Expert Discovery
September 25, 2025	Serve Disclosures for Rebuttal Expert Witnesses
August 28, 2025	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
September 4, 2025	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
August 21, 2025	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
2 weeks After Court's Issuance of Claim Construction Order	Submit joint notice indicating whether the case should be referred for mediation
July 31, 2025	*Claim Construction Hearing – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
July 17, 2025	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
July 10, 2025	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
July 3, 2025	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)

If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

June 18, 2025	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any) Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).
June 18, 2025	Deadline to Substantially Complete Document Production and Exchange Privilege Logs Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
June 5, 2025	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
May 29, 2025	File Response to Amended Pleadings
May 15, 2025	*File Amended Pleadings It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
May 8, 2025	Comply with P.R. 4-3 (Joint Claim Construction Statement)
April 17, 2025	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
March 27, 2025	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
October 30, 2024	Comply with Standing Order Regarding Subject-Matter Eligibility Contentions ⁶
[[Plaintiff: October 30, 2024]] [[Defendant: December 11, 2024]]	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)

⁶ <http://www.txed.uscourts.gov/sites/default/files/judgeFiles/EDTX%20Standing%20Order%20Re%20Subject%20Matter%20Eligibility%20Contentions%20.pdf> [https://perma.cc/RQN2-YU5P]

October 9, 2024	*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures) The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.
October 9, 2024	*File Proposed Docket Control Order and Proposed Discovery Order The Proposed Docket Control Order and Proposed Discovery Order shall be filed as separate motions with the caption indicating whether or not the proposed order is opposed in any part.
September 25, 2024	Join Additional Parties
September 4, 2024	Comply with P.R. 3-1 & 3-2 (Infringement Contentions)

(*) indicates a deadline that cannot be changed without an acceptable showing of good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

ADDITIONAL REQUIREMENTS

Mediation: While certain cases may benefit from mediation, such may not be appropriate for every case. The Court finds that the Parties are best suited to evaluate whether mediation will benefit the case after the issuance of the Court's claim construction order. Accordingly, the Court **ORDERS** the Parties to file a Joint Notice indicating whether the case should be referred for mediation **within fourteen days of the issuance of the Court's claim construction order**. As a part of such Joint Notice, the Parties should indicate whether they have a mutually agreeable mediator for the Court to consider. If the Parties disagree about whether mediation is appropriate, the Parties should set forth a brief statement of their competing positions in the Joint Notice.

Summary Judgment Motions, Motions to Strike Expert Testimony, and Daubert Motions: For each motion, the moving party shall provide the Court with two (2) hard copies of the completed briefing (opening motion, response, reply, and if applicable, sur-reply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. These copies shall be delivered to the Court within three (3) business days after briefing has completed. For expert-related motions, complete digital copies of the relevant expert report(s) and accompanying exhibits shall be submitted on a single flash drive to the Court. Complete digital copies of the expert report(s) shall be delivered to the Court no later than the dispositive motion deadline.

Indefiniteness: In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

Lead Counsel: The Parties are directed to Local Rule CV-11(a)(1), which provides that “[o]n the first appearance through counsel, each party shall designate a lead attorney on the pleadings or otherwise.” Additionally, once designated, a party’s lead attorney may only be changed by the filing of a Motion to Change Lead Counsel and thereafter obtaining from the Court an Order granting leave to designate different lead counsel. The true lead counsel should be designated early and should not expect to parachute in as lead once the case has been largely developed.

Motions for Continuance: The following will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

Amendments to the Docket Control Order (“DCO”): Any motion to alter any date on the DCO shall take the form of a motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

Proposed DCO: The Parties’ Proposed DCO should also follow the format described above under “Amendments to the Docket Control Order (‘DCO’).”

Joint Pretrial Order: In the contentions of the Parties included in the Joint Pretrial Order, the Plaintiff shall specify all allegedly infringed claims that will be asserted at trial. The Plaintiff shall also specify the nature of each theory of infringement, including under which subsections of 35 U.S.C. § 271 it alleges infringement, and whether the Plaintiff alleges divided infringement or infringement under the doctrine of equivalents. Each Defendant shall indicate the nature of each theory of invalidity, including invalidity for anticipation, obviousness, subject-matter eligibility, written description, enablement, or any other basis for invalidity. The Defendant shall also specify each prior art reference or combination of references upon which the Defendant shall rely at trial, with respect to each theory of invalidity. Other than as set forth in the above deadlines, the contentions of the Parties may not be amended, supplemented, or dropped without leave of the Court based upon a showing of good cause. The Parties in a case which has been consolidated for pre-trial purposes and which is moving towards a separate trial on the merits (subsequent to pre-trial) shall file, as an exhibit to the parties’ Joint Pretrial Order, a list identifying all docket entries from the lead case that relate to the applicable member case.

Trial: All parties must appear in person at trial. All non-individual (including but not limited to corporate) parties must appear at trial through the presence in person of a designated representative. Once they have appeared, any representative of a non-individual party shall not be replaced or substituted without express leave of Court.