

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PNY TECHNOLOGIES, INC.,

Plaintiff,

v.

NETAC TECHNOLOGY CO., LTD.,

Defendant.

Civil No. 18-07932

PRETRIAL SCHEDULING ORDER

THIS MATTER having come before the Court for a scheduling conference pursuant to Rule 16 of the Federal Rules of Civil Procedure on **January 28, 2019**, and the parties having reviewed the Court's Civil Case Management Order as well as the Local Civil Rules, and for good cause shown,

IT IS ON THIS DAY OF 2/21/19, 2019

ORDERED THAT the next event in this matter will be a status conference on **February 28, 2019**; and

FURTHER ORDERED that this matter will proceed as follows:

1. Fact Discovery Deadline.

Fact discovery is to remain open through January 31, 2020. All fact witness depositions must be completed by the close of fact discovery. No discovery is to be issued or engaged in beyond that date, except upon application and for good cause shown.

2. Motions to Add New Parties.

Any motion to add new parties, whether by amended or third-party complaint, must be electronically filed no later than May 28, 2019.

3. Motions to Amend Pleadings.

Any motion to amend pleadings must be electronically filed no later than May 28, 2019.

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4. Rule 26 Disclosures.

The parties shall exchange disclosures pursuant to Rule 26 no later than February 14, 2019.

5. Interrogatories.

The parties may serve interrogatories limited to twenty-five (25) single questions including subparts, which shall be responded to within thirty (30) days of service, pursuant to Rule 33 of the Federal Rules of Civil Procedure.

6. Document Requests.

The parties may serve requests for production of documents, which shall be responded to within thirty (30) days of service, pursuant to Rule 34 of the Federal Rules of Civil Procedure.

7. Depositions.

Each deposition is limited to a maximum of seven (7) hours unless extended by agreement of the parties or leave of the Court. The number of depositions to be taken by each side shall not exceed ten (10) under Fed. R. Civ. P. 30 or 31, unless extended by agreement of the parties or leave of Court.

8. Electronic Discovery. The parties will meet and confer pursuant to Local Rule 26.1(d)(3) regarding electronic discovery.

9. Discovery Disputes. Please refer to the Court's Civil Case Management Order.

10. Motion Practice.

Please refer to the Court's Civil Case Management Order.

Motions for summary judgment will be filed upon leave of Court. If leave is granted, the last day for filing dispositive motions will be May 15, 2020.

Netac is granted leave to file a motion for summary judgment regarding Claims Four and Five of the Amended Complaint. The opening brief shall be filed on or before February 14, 2019. PNY's responsive brief shall be filed on or before March 15, 2019, and Netac's reply brief shall be filed on or before March 28, 2019.

11. Expert Reports.

All affirmative expert reports shall be delivered by January 31, 2020. All responsive expert reports shall be delivered by February 29, 2020. Depositions of all experts to be completed by March 31, 2020.

12. Form and Content of Expert Reports.

All expert reports must comport with the form and content requirements set forth in Rule 26(a)(2)(B). No expert shall testify at trial as to any opinions or base those opinions on facts not

substantially disclosed in the expert's report.

13. Local Patent Rule Disclosures and Schedule

Pursuant to the Local Patent Rules, the following disclosures and dates are entered.

Invalidity Contentions under L. Pat. R. 3.3 are due March 15, 2019. Document production pursuant to L. Pat. R. 3.4 will be made concurrently. Responses to Invalidity Contentions under L. Pat. R. 3.4(a) are due March 29, 2019 along with any related and required document production.

The parties will exchange proposed claim terms for construction pursuant to L. Pat. R. 4.1(a) on April 12, 2019. The parties will exchange their Preliminary Claim Constructions and supporting evidence pursuant to L. Pat. R. 4.2(a) & (b) on May 3, 2019. The parties will exchange and disclose intrinsic evidence pursuant to L. Pat. R. 4.2(c) on May 17, 2019. The parties will submit a Joint Claim Construction and Prehearing Statement by June 3, 2019 pursuant to L. Pat. R. 4.3. All claim construction discovery shall be complete by June 26, 2019.

The parties will submit Opening *Markman* Submissions pursuant to L. Pat. R. 4.5 on July 11, 2019. The parties will contemporaneously file and serve responding *Markman* briefs and any evidence supporting claim construction on September 9, 2019. Following *Markman* briefing, the parties will confer regarding a proposed Claim Construction Hearing pursuant to L. Pat. R. 4.6.

14. Extensions and Adjournments.

Please refer to the Court's Civil Case Management Order.

15. Protective Orders.

Any proposed confidentiality order agreed to by the parties must strictly comply with Rule 26(c), Local Civil Rule 5.3, and applicable case law. Please also refer to the Court's Civil Case Management Order. All discovery from the arbitration before Judge Bassler, and all discovery of the Texas patent litigation between the parties, may be used in this litigation pursuant to the terms of any confidentiality order.

16. Local Rules.

The parties are directed to the Local Civil Rules for any other matter not addressed by this Order or the Court's Civil Case Management Order.

17. FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER OR ANY OTHER ORDERS WILL RESULT IN SANCTIONS.

/s/ Cathy L. Waldor

CATHY L. WALDOR

United States Magistrate Judge