IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AERIN MEDICAL INC. and THE FOUNDRY, LLC,	)	
Plaintiffs and Counter-claim Defendants,	)	
v.	)	C.A. No. 23-756 (JLH) (Consolidated)
NEURENT MEDICAL INC. and NEURENT MEDICAL LTD.,	)	
Defendants and Counter-claim Plaintiffs.	)	

JOINT STATUS REPORT REGARDING STIPULATED [PROPOSED] SCHEDULE FOR FURTHER PROCEEDINGS

Pursuant to the Court's February 28, 2025 Oral Order (D.I. 104), the parties have conferred and submit this status report with a stipulated proposed schedule governing further proceedings.

A. Procedural Background

Plaintiffs and Counter-claim Defendants Aerin Medical Inc. ("Aerin") and The Foundry, LLC ("Foundry") filed the above-captioned matter on July 11, 2023, and, through their Amended Complaint (D.I. 17), assert infringement by Defendants and Counter-claim Plaintiffs Neurent Medical Inc. and Neurent Medical Ltd. (collectively "Neurent") of U.S. Patent Nos. 9,072,597 ("the '597 patent), 9,415,194 ("the '194 patent"), 10,610,675 ("the '675 patent"), 10,894,011 ("the '011 patent"), 11,033,318 ("the '318 patent"), 11,241,271 ("the '271 patent"), 11,679,077 ("the '077 patent"), and 11,766,286 ("the '286 patent") (collectively, the "Aerin/Foundry Patents"). Neurent filed Amended Counterclaims (D.I. 81) on July 8, 2024, asserting infringement by Aerin of U.S. Patent No. 11,998,262 ("the '262 patent"), tortious interference, and unfair competition. Plaintiffs' motion to dismiss those counterclaims (D.I. 89) is pending.

Neurent challenged as unpatentable each of the claims of the Aerin/Foundry Patents that had been asserted in Plaintiffs' Amended Complaint (*see* D.I. 17 ¶¶ 106-225) in *Inter Partes* Review ("IPR") Proceedings (D.I. 93). In July 2024, the Patent Trial and Appeal Board instituted IPRs with respect to all of the Aerin/Foundry Patents (D.I. 93).

On August 8, 2024, the Court entered the parties' stipulation staying the action in its entirety, including the claims in the Amended Complaint (related to the Aerin/Foundry Patents) and Neurent's defenses and Amended Counterclaims (related to the Neurent '262 patent, tortious interference, and unfair competition), until such time as the Patent Trial and Appeal Board has issued Final Written Decisions in the *Inter Partes* Review Proceedings related to the Aerin/Foundry Patents (D.I. 93).

On September 24, 2024, Neurent filed an action asserting infringement by Aerin of U.S. Patent Nos. 12,096,973; 12,096,974; and 12,098,889 (collectively with the '262 patent, "the Neurent Patents") in the matter captioned *Neurent Medical Ltd. v. Aerin Medical Inc.*, C.A. No. 24-1070-JLH (D. Del.), which was subsequently consolidated with this action (D.I. 106). Aerin's motion to dismiss those claims (1070 Action, D.I. 19) is pending.

On October 24, 2024, Aerin statutorily disclaimed all claims of the '597 and '194 patents that had been asserted against, and challenged by, Neurent.

On March 18, 2025, the Court entered a Stipulation and Order to Consolidate (D.I. 106) and an Order Regarding Interim Scheduling Concerning the Neurent Patents-in-Suit (D.I. 107), which maintained the stay on the claims and defenses related to the Aerin/Foundry Patents and Neurent's counterclaims (*see* D.I. 93), provided interim dates for discovery on the Neurent Patents to get them "caught up" to where discovery was on the Aerin/Foundry Patents at the time of the

original stay, ordered the parties to meet and confer and file a proposed schedule governing further proceedings, and set an in-person status conference for August 8, 2025 at 11:00am.

The Patent Trial and Appeal Board has now issued Final Written Decisions in the *Inter Partes* Review Proceedings finding all challenged claims in the remaining Aerin/Foundry Patents unpatentable (D.I. 122, 123).[1]

Additionally, on June 19, 24, 25, and 27, 2025, Aerin filed Petitions for *Inter Partes* Review challenging all of the claims of the Neurent Patents as unpatentable (D.I. 119). The Patent Trial and Appeal Board's decisions on institution in each of the *Inter Partes* Review Proceedings on Neurent Patents are expected to issue by January 8, 2026.

B. <u>The Parties' Joint Stipulated [Proposed] Schedule</u>

The parties agree that the stay of Aerin and The Foundry's claims of infringement of the Aerin/Foundry Patents should remain in place through any appeals of the Final Written Decisions in the *Inter Partes* Review Proceedings involving the Aerin/Foundry Patents. The parties agree that no other claims or counterclaims presently in the case should remain stayed at this time.

This status report and proposed schedule does not preclude any party from filing any appropriate motion, including any motion to stay or opposition thereto, or motion regarding any proposed amendment of pleadings or opposition thereto.

The parties propose the following deadlines to govern future proceedings in this case[2]:

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[1] The only claim asserted in Plaintiffs' Infringement Contentions that was not challenged in the *Inter Partes* Review Proceedings—because it was not identified in the Amended Complaint (D.I. 17 ¶ 211)—was claim 10 of the '286 patent. However, Aerin and Foundry agreed to dismiss claim 10 of the '286 patent from this lawsuit with prejudice upon conclusion of any appeals from the final written decision finding claim 17 of the '318 patent unpatentable. D.I. 87 at 2.

[2] The parties further agree that the discovery limits and procedures, claim construction briefing limits and procedures, and case dispositive and *Daubert* briefing limits and procedures in the original scheduling order (D.I. 42) remain in place.

Event	**Deadline**
Joinder of Other Parties and Amendment of Pleadings[3]	Friday, September 12, 2025
[*If pleadings are amended*] Identification of Accused Products, Damages Model, Asserted Patents, and Produce File Histories	Friday, September 19, 2025
[*If pleadings are amended*] Production of Core Technical Documents and Sales Figures for Accused Products	Monday, October 20, 2025
[*If pleadings are amended*] Production of Initial Infringement Claim Chart	Wednesday, November 19, 2025
[*If pleadings are amended*] Production of Initial Invalidity Contentions and Invalidating References	Monday, December 22, 2025
Exchange Proposed Terms for Construction	Wednesday, January 21, 2026
Exchange Proposed Claim Constructions	Wednesday, January 28, 2026
Meet and Confer to Prepare Joint Claim Construction Chart	Monday, February 2, 2026
Parties to File Joint Claim Construction Chart	Wednesday, February 4, 2026
Opening Claim Construction Brief by party asserting patent	Wednesday, February 18, 2026
Answering Claim Construction Brief by party patent asserted against	Wednesday, March 4, 2026
Reply Claim Construction Brief by party asserting patent	Wednesday, March 18, 2026
Sur-Reply Claim Construction Brief by party patent asserted against	Wednesday, April 1, 2026
Optional Technology Tutorial	Wednesday, April 8, 2026
File Joint Claim Construction Briefs	Wednesday, April 8, 2026
Joint Letter re Request for Testimony and Duration of Claim Construction Hearing	Wednesday, April 8, 2026
Meet and Confer on Claim Construction Issues and to Prepare Amended Joint Claim Construction Chart	Tuesday, April 28, 2026
Parties to File Amended Joint Claim Construction Chart	Wednesday, May 6, 2026

[3] Aerin and The Foundry intend to assert new claims of patent infringement against Neurent (including U.S. Patent Nos. 11,832,876, 12,369,963 and 12,369,973, and U.S. Application No. 18/177,875, which will issue soon, collectively the "Aerin/Foundry New Patents") and intend to do so by moving to amend their pleadings in this case. Neurent also reserves the right to move to amend its pleadings on or before the proposed deadline and/or to oppose any motion to amend by Aerin and The Foundry. Aerin reserves the right to oppose any motion to amend by Neurent.

Event	**Deadline**
Hearing on Claim Construction	May 28, 2026 at 1:00 pm
Substantial Completion of Document Production	Wednesday, February 25, 2026
Interim Status Report on Discovery	Friday, April 3, 2026
Serve Privilege Logs	Wednesday, May 27, 2026
Anticipated Claim Construction Ruling	Approximately July 13, 2026
Parties to Serve Final Infringement Contentions and Final Identification of Accused Products	Monday, July 27, 2026
Parties to Serve Final Invalidity Contentions and Final Identification of Invalidity References	Monday, August 17, 2026
Close of Fact Discovery	Monday, August 31, 2026
Opening Expert Reports	Monday, November 2, 2026
Rebuttal Expert Reports	Thursday, December 17, 2026
Reply Expert Reports	Monday, January 18, 2027
Close of Expert Discovery	Thursday, March 4, 2027
Deadline to file Dispositive Motions and *Daubert* Motions	Thursday, April 1, 2027
Answering Briefs for Dispositive Motions and *Daubert* Motions	Thursday, April 29, 2027
Reply Briefs for Dispositive Motions and *Daubert* Motions	Thursday, May 13, 2027
Meet and Confer on Schedule for Pretrial Exchanges	Tuesday, June 1, 2027
Hearing on Dispositive Motions and *Daubert* Motions	Thursday, June 17, 2027 at 1:00 pm
Parties to File Joint Proposed Final Pretrial Order	Monday, August 9, 2027
Parties to File Proposed Jury Instructions, Voir Dire, and Verdict Forms	Monday, August 9, 2027
Final Pretrial Conference	August 16, 2027 at 3:00 pm
Jury Trial	August 23, 2027
Joint Form of Order to Enter Judgment on the Verdict	7 days after verdict
Joint Status Report re Post-Trial Motions	7 days after verdict

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August 5, 2025

SO ORDERED, this 19th day of August, 2025.

The Hon. Jennifer L. Hall
United States District Judge