IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

DIVX, LLC, Plaintiff, v. AMAZON.COM, INC., and AMAZON WEB SERVICES, INC., Defendants.	)))))))))))	Case No. 1:24-cv-02061 (CMH/LRV)

RULE 16(B) SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16(b), Local Civil Rule 16(B), and the Court's July 1, 2025 Scheduling Order (Dkt. No. 68), an initial pretrial conference was held telephonically in this matter on July 22, 2025, at which counsel for both parties appeared. Upon consideration of the representations made by the parties in the parties Joint Proposed Revised Discovery Plan (the "Revised Joint Discovery Plan") (Dkt. No. 76),[1] and consistent with the discussion during the initial pretrial conference, the Court makes the following rulings:

1. The Revised Joint Discovery Plan filed by the parties is approved, ***as amended herein***, and shall control discovery to the extent of its application unless further modified by the Court.

2. As set forth in Paragraph 2 of the Revised Joint Discovery Plan and amended by the Court, the following discovery and other pre-trial deadlines shall control:

Event	Deadline
Rule 16(b) Conference	July 22, 2025

[1] During the Rule 16(b) Conference on July 22, 2025, the Court directed the parties to meet and confer and file a revised proposed schedule that accounts for the modified Final Pretrial Conference date and the Court's rulings. (*See* Dkt. No. 73.) The parties timely submitted the Joint Proposed Revised Discovery Plan on July 28, 2025.

Event	Deadline
Serve Rule 26(a)(1) Initial Disclosures	July 24, 2025
Submission of proposed Protective Order and ESI Stipulation	July 24, 2025
Preliminary Identification of Asserted Claims and Priority Dates and Preliminary Infringement Disclosures	August 1, 2025
Deadline for substantial completion of source code production	August 8, 2025
Preliminary Disclosure and Production of Asserted Prior Art Preliminary Invalidity Disclosures	August 15, 2025
Exchange proposed terms for construction	August 21, 2025
Last day to amend pleadings	August 26, 2025
Exchange proposed claim constructions and extrinsic evidence	August 28, 2025
Deadline for substantial completion of document production for non-source code documents	September 5, 2025
Parties to file simultaneous Opening Claim Construction Briefs	September 12, 2025
Parties to file simultaneous Responsive Claim Construction Briefs	September 26, 2025
Claim Construction Hearing	October 2, 2025 (subject to Court availability)
All privilege logs to be completed and served	October 3, 2025
Final Infringement Contentions (Amendment of Infringement Contentions after this date may be made only by order of the Court upon a timely showing of good cause)	October 3, 2025
Final Invalidity Contentions (Amendment of Invalidity Contentions after this date may be made only by order of the Court upon a timely showing of good cause)	October 13, 2025
Opening Expert Reports for the party with burden of proof	October 24, 2025
Rebuttal Expert Reports	November 21, 2025
Close of discovery	December 12, 2025
Final Pretrial Conference	December 18, 2025 at 10:00 a.m.

Event	Deadline
Deadline to file list of trial exhibits, witnesses, and written stipulation of uncontested facts	Same day as Final Pretrial Conference

To the extent the parties wish to modify these deadlines, they must seek leave of the Court.

3. Consistent with Paragraph 6(a) of the Revised Joint Discovery Plan, the parties filed a Stipulated Order Governing the Production of Electronically Stored Information on July 24, 2025. (Dkt. No. 74.)

4. Consistent with Paragraph 8 of the Revised Joint Discovery Plan, the parties filed a Stipulated Protective Order on July 24, 2025. (Dkt. No. 75.)

5. In Paragraph 14 of the Revised Joint Discovery Plan, the parties state that they "have discussed the possibilities of a prompt settlement and may request the scheduling of a mediation with one of the Court's U.S. Magistrate Judges to reach an early resolution of the case." The parties are encouraged to continue discussing an early resolution of this matter. If the parties believe that a settlement conference with the Court would be of assistance in resolving this matter, they are encouraged to jointly contact the undersigned's chambers so that a settlement conference may be scheduled. For planning purposes, the parties are advised that the undersigned prefers to conduct settlement conferences in person, and that due to the Court's calendar, a settlement conference may be scheduled for a date several weeks after the parties reach out to request a date.

6. Disclosures under Federal Rules of Civil Procedure 26(a)(1) and (2), notices of depositions, interrogatories, requests for documents and admissions, and answers thereto shall <u>not</u> be filed on the docket except on order of the Court, or for use in a motion or at trial.

7. No "general objection" may be asserted in response to any discovery request except to preserve the attorney-client privilege and work product protection.

8. The parties are reminded that, pursuant to Local Civil Rule 26(C), objections to discovery requests are due by 15 days after service.

9. The parties are reminded of their obligation to preserve all discoverable information, including but not limited to Electronically Stored Information ("ESI").

10. **All discovery-related motions must be filed in time to be heard by the close of discovery**.

11. The following provisions shall apply to the filing and noticing of all motions:

(a) All motions must contain a statement that a good-faith effort to narrow the area of disagreement has been made in accordance with Local Civil Rule 7(E) and Local Civil Rule 37(E) for discovery motions. All motions must adhere to the page limits and font requirements set in Local Civil Rule 7(F)(3). An appropriate number of paper copies of any motion and all pleadings relating to that motion shall be delivered directly to the attention of the judge hearing the motion at the Clerk's Office within one day of the electronic filing. *See* "Alexandria Chambers Copies/Division-Specific Information" on the Alexandria page of the Court's website located at www.vaed.uscourts.gov.

(b) Except for consent motions, all motions shall be accompanied either by a waiver of hearing or a notice of hearing for the earliest possible hearing date consistent with the briefing schedules discussed below. A consent motion should be filed in accordance with the procedures provided on the Alexandria page of the Court's website referenced above.

(c) Any motion to amend the pleadings or to join a party must be made as soon as possible after counsel or the party becomes aware of the grounds for the motion.

(d) Dispositive motions shall be filed and briefed in accordance with the schedule set forth in Local Civil Rule 7(F)(1). Local Civil Rule 7(F)(1) provides that a response brief is due 14 days after service of the motion and a reply brief may be filed 6 days after the service of the response.

The periods for filing a response brief and a reply shall apply without regard to the mode of service used for those briefs.

(e) In order to provide for the prompt resolution of non-dispositive matters to be heard by the assigned magistrate judge, a non-dispositive motion may be filed by no later than 5:00 p.m. on a Friday and noticed for a hearing at 10:00 a.m. on the following Friday. Under this expedited schedule, a response brief must be filed no later than 5:00 p.m. on the following Wednesday and any reply brief should be filed as early as possible on Thursday to give the Court time to review all pleadings before the hearing. This expedited schedule shall apply for non-dispositive motions noticed for a hearing with less than two weeks' notice. If a non-dispositive motion is noticed for a hearing between two and three weeks from the filing date, any response brief must be filed 7 days after service and any reply brief may be filed 3 days after service of the response. At the moving party's discretion, a non-dispositive motion may also be filed and noticed for a hearing with three weeks' notice and the briefing schedule provided in Local Civil Rule 7(F)(1) providing for 14 days for a response brief and 6 days for a reply would apply. If a non-dispositive motion is filed and oral argument is waived, any response brief must be filed within 7 days after service and any reply brief within 3 days after service of the response.

(f) All summary judgment issues shall be presented in the same pleading unless leave of the Court is first obtained. As required by Local Civil Rule 56, each brief in support of a motion for summary judgment must include a separately captioned section within the brief listing, in numbered-paragraph form, each material fact that the movant contends is undisputed with appropriate citations to the record. A brief in opposition to a motion for summary judgment must include a separately captioned section within the brief addressing, in numbered-paragraph form corresponding to the movant's section, each of the movant's enumerated facts and indicating whether the non-movant admits or disputes the fact with appropriate citations to the record. The Court may assume that any

fact identified by the movant as undisputed in the movant's brief that is not specifically controverted in the non-movant's brief in the manner set forth above is admitted for the purpose of deciding the motion for summary judgment.

(g) Any motion to file a document under seal must comply with Local Civil Rule 5. Pursuant to Local Civil Rule 5, a notice specifically identifying the motion as a sealing motion must be filed on the public record. There is no need to file a notice of hearing or waiver of hearing for a motion to seal. A memorandum must be filed stating sufficient facts to support the action sought, and a proposed order must include specific findings. Where a party moves to file material under seal because the opposing party has designated that material as confidential, the opposing party must file a response to the motion and a proposed order that meets the requirements of Local Civil Rule 5. Only material found to meet the required standard may be sealed, with the remainder filed in the public record. An unsealed, redacted version of the filing in issue shall be filed with the motion to seal. Filings under seal are disfavored and discouraged. *See Va. Dep't of State Police v. Washington Post*, 386 F.3d 567, 575–76 (4th Cir. 2004).

12. In the event this case is tried before a jury, each party shall file their proposed jury instructions and *voir dire* seven (7) days prior to trial in accordance with Local Civil Rule 51. Violation of this Rule will constitute a waiver of objections to any instructions given. In the event the case is tried without a jury, counsel shall file written proposed findings of fact and conclusions of law prior to the beginning of trial.

ENTERED this 6th day of August, 2025.

Lindsey R. Vaala

Lindsey R. Vaala
United States Magistrate Judge

Alexandria, Virginia