

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF DELAWARE

SHOULDER INNOVATIONS, INC.,

Plaintiff,

vs.

NO. 1:24-cv-00266

CATALYST ORTHOSCIENCE, INC.,

Defendant.

STATUS CONFERENCE

BEFORE THE HONORABLE JON P. McCALLA, JUDGE

THURSDAY

18TH OF JULY, 2024

LISA J. MAYO, RDR, CRR
OFFICIAL REPORTER
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THURSDAY

July 18, 2024

THE COURT: All right. This is really a status conference to help us be sure we stay on track and also to consider the possibility -- I'm not saying that we need to do that -- but some modification of the schedule in order to move the case along. The Court's reviewed the proportionality statements from both parties, and I may be incorrect, so I'm going to ask you -- make sure I've got everybody here that I need. I've got -- I've got Mr. Bennett for Catalytic, is that right? Here he is.

MR. BENNETT: Yes, Your Honor. Good morning.

THE COURT: Good morning. How are you this morning?

MR. BENNETT: Very good. How are you?

THE COURT: Good. Where are you today, which location?

MR. BENNETT: Sunny Cincinnati, Ohio, Your Honor.

THE COURT: Cincinnati, okay. Absolutely. Well, is it sunny?

MR. BENNETT: It is sunny. That's why I mentioned it because it's usually rainy. So today is a very

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1 **THE COURT:** I think that's reasonable. Is it
2 okay -- we're going to go back to Mr. Gurka, but if we can
3 put this date on a specific date and we can let you both meet
4 and confer and suggest other dates. We don't have a problem
5 with your working in that way, and that's a better way to do
6 it than for me to say, oh, we got to do this, this and this.
7 It would be better to have your individual input.

8 Let's go back to Mr. Gurka. If we move that
9 date, will that work for you?

10 **MR. GURKA:** Yes, January 22nd is fine, Your
11 Honor.

12 **THE COURT:** Okay. And do you think that it would
13 be appropriate now for the parties to confer and compress
14 where needed?

15 **MR. GURKA:** Your Honor, yes. I will reach out to
16 Mr. Bennett. We have a proposal to provide a little bit more
17 time on the invalidity contentions regarding the new patent.
18 In our view it shouldn't impact the schedule at all. All of
19 the dates leading up to the Markman should be intact. And,
20 again, don't see any problem with moving the date for the
21 actual Markman up.

22 **THE COURT:** Okay. So what we're going to do is
23 we're going to put the Markman on the 22nd of January. I am
24 going to ask you to confer and submit a slight modification
25 to the dates that we have that precede that, and then we will

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1 look at it.

2 And I want to ask a very quick question. I don't
3 want to spend a whole lot of time on it. I really am a
4 little concerned that the very late, that is, the March 9,
5 2026, date, maybe we could really compress that. I'm looking
6 at really the cost savings for the parties as much as I can.
7 I'm not going to do that right now, but I am going to ask is
8 that conceivable, Mr. Gurka? I mean, we understand the
9 problems in doing that, but there's some reasons we would
10 like to move it up maybe quite substantially. Is that
11 feasible, and would that be also maybe a potential cost
12 saver?

13 **MR. GURKA:** We would have to consider that, Your
14 Honor, just given the fact that we're heading into finalizing
15 our contentions here, at least on the invalidity side and
16 then moving into the briefing, and we're still working out
17 the details of the ESI exchange, which I think will really
18 help facilitate the discovery. But, you know, I don't really
19 want to commit anything on the fact discovery at this point.
20 I think we may need that time, Your Honor.

21 **THE COURT:** And I understand that. There are
22 several things that are coming into play on that, and so --
23 just to keep that in mind. I'm not going to try to do that
24 today. We're going to get -- we're going to get this claim
25 construction done. We're going to try to be as absolutely as

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1 efficient as we can, and that may give us a window to make
2 some adjustments there. We understand that. I'm not -- I
3 really have run out of time by a little bit already, ten
4 minutes.

5 Mr. Bennett, does that make sense? We're going
6 to hold that issue, and I'm going to just plant the idea that
7 it might be to everybody's advantage. I know that lawyers
8 would like to do everything possible, and the answer is that
9 sometimes it's -- we need to be as efficient as possible.
10 And I'm just concerned for the parties here. You know, I
11 have to be.

12 Mr. Bennett, something we can think about later.
13 I'm going to put it down as a think-about-later-issue; is
14 that okay?

15 **MR. BENNETT:** Yes. Thank you, Your Honor.

16 **THE COURT:** I would like for all of you to think
17 about it, but I understand we don't want to adjust it at this
18 time. That's not practical.

19 All right. Well, look, it was good to see
20 everybody. I want to make sure that we --

21 Ms. Smith, did I get your name right? Is
22 Ms. Smith there?

23 **MS. SMITH:** Yes, Your Honor. Thank you, Your
24 Honor.

25 **THE COURT:** I wanted to say thank you for being

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1 with us today. It is done differently as I said earlier many
2 times, but congratulations. Sounds like things are going
3 well, and we all wish you well in your academics and other
4 endeavors. So good to have you with us.

5 There's probably somebody I ought to say
6 something nice about for counsel opposite, but I'll just say
7 to all of you it was a pleasure having you on today, and we
8 are working on it. Thanks very much.

9 **MR. GURKA:** Thank you, Your Honor.

10 **MR. BENNETT:** Thank you, Your Honor.

11 (The videoconference (Teams) proceedings
12 concluded at 10:57 a.m.)
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C E R T I F I C A T E

I, LISA J. MAYO, CRR, RDR, do hereby certify that the foregoing 65 pages are, to the best of my knowledge, skill and ability to discern testimony and comments via videoconference transmission, a true and accurate transcript from my stenotype notes of the STATUS CONFERENCE on 18th day of July, 2024, in the matter of:

SHOULDER INNOVATIONS, INC.

vs.

CATALYST ORTHOSCIENCE, INC.

Dated this 08.08.2024

S/Lisa Mayo

Lisa J. Mayo, CRR, RDR
Official Court Reporter
United States District Court
Western District of Tennessee

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