**Subject:** RE: Vervain/Phison - Meet and Confer Re/ Narrowing
**Date:** Monday, June 9, 2025 at 9:49:57 AM Eastern Daylight Time
**From:** Alan Whitehurst
**To:** Wilson, Brock, Peter Yi, Christian Dorman, Douglas Chin, Edward Runyan, Hsuanyeh Chang, Stephen Chow, Carrano, Cono, Stronczer, Ryan, Rosbrook, Andy
**CC:** Vervain-Phison-MS
**Attachments:** image002.png, image003.png, image004.png, ModelPatentOrder.pdf

Counsel,

Thank you for meeting and conferring on June 6. As I mentioned on our call, here is a case narrowing proposal for the Phison action that is based on the limits in the attached EDTX standing order (https://www.txed.uscourts.gov/sites/default/files/forms/ModelPatentOrder.pdf). To be clear, this proposal would apply to only the Phison case, and Vervain may elect different claims in the Kingston case. Our proposal for the Kingston action would be the same, except obviously "Phison" would be changed to "Kingston."

> By June 13, 2025, Vervain shall serve a Preliminary Election of Asserted Claims, which shall assert no more than ten claims from each patent and not more than a total of 32 claims. By June 20, 2025, Phison shall serve a Preliminary Election of Asserted Prior Art, which shall assert no more than twelve prior art references against each patent and not more than a total of 40 references. For purposes of this Preliminary Election of Asserted Prior Art, each obviousness combination counts as a separate prior art reference.
>
> No later than 7 days after the close of expert discovery, Vervain shall serve a Final Election of Asserted Claims, which shall identify no more than five asserted claims per patent from among the ten previously identified claims and no more than a total of 16 claims. No later than 7 days after the service of the Final Election of Asserted Claims, Phison shall serve a Final Election of Asserted Prior Art, which shall identify no more than six asserted prior art references per patent from among the twelve prior art references previously identified for that particular patent and no more than a total of 20 references. For purposes of this Final Election of Asserted Prior Art, each obviousness combination counts as a separate prior art reference.

Please let us know by Wednesday, June 11, close of business, whether this proposal is acceptable to either Phison or Kingston.

Best regards,
Alan

**McKool Smith** | Alan Whitehurst
Principal | Washington, D.C. | Tel: (202) 370-8307

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**From:** Alan Whitehurst <awhitehurst@McKoolSmith.com>
**Sent:** Friday, June 6, 2025 2:52 PM
**To:** Wilson, Brock <bfwilson@akingump.com>; Peter Yi <peter.yi@hsuanyeh.com>; Christian Dorman <cdorman@McKoolSmith.com>; Douglas Chin <doug.chin@hsuanyeh.com>; Edward Runyan <Ed.Runyan@hsuanyeh.com>; Hsuanyeh Chang <hsuanyeh@hsuanyeh.com>; Stephen Chow <stephen.y.chow@hsuanyeh.com>; Carrano, Cono <ccarrano@AKINGUMP.com>; Stronczer, Ryan <rstronczer@akingump.com>; Rosbrook, Andy <arosbrook@AKINGUMP.com>
**Cc:** Vervain-Phison-MS <Vervain-Phison-MS@mckoolsmith.com>
**Subject:** RE: Vervain/Phison - Meet and Confer Re/ Narrowing

I will send invite for today at 4:30 pm ET. Thanks.

**McKool Smith** | Alan Whitehurst
Principal | Washington | (202) 370-8307

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**From:** Wilson, Brock <bfwilson@akingump.com>
**Sent:** Friday, June 6, 2025 1:15 PM
**To:** Peter Yi <peter.yi@hsuanyeh.com>; Christian Dorman <cdorman@McKoolSmith.com>; Douglas Chin <doug.chin@hsuanyeh.com>; Edward Runyan <Ed.Runyan@hsuanyeh.com>; Hsuanyeh Chang <hsuanyeh@hsuanyeh.com>; Stephen Chow <stephen.y.chow@hsuanyeh.com>; Carrano, Cono <ccarrano@AKINGUMP.com>; Stronczer, Ryan <rstronczer@akingump.com>; Rosbrook, Andy <arosbrook@AKINGUMP.com>
**Cc:** Vervain-Phison-MS <Vervain-Phison-MS@mckoolsmith.com>
**Subject:** RE: Vervain/Phison - Meet and Confer Re/ Narrowing

Christian, Kingston is available the same times as Phison for today's meet and confer. Regards, Brock

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**From:** Peter Yi <peter.yi@hsuanyeh.com>
**Sent:** Friday, June 6, 2025 1:11 PM
**To:** Christian Dorman <cdorman@McKoolSmith.com>; Douglas Chin <doug.chin@hsuanyeh.com>; Edward Runyan <Ed.Runyan@hsuanyeh.com>; Hsuanyeh Chang <hsuanyeh@hsuanyeh.com>; Stephen Chow <stephen.y.chow@hsuanyeh.com>; Carrano, Cono <ccarrano@AKINGUMP.com>; Wilson, Brock <bfwilson@akingump.com>; Stronczer, Ryan <rstronczer@akingump.com>; Rosbrook, Andy <arosbrook@AKINGUMP.com>
**Cc:** Vervain-Phison-MS <Vervain-Phison-MS@mckoolsmith.com>
**Subject:** RE: Vervain/Phison - Meet and Confer Re/ Narrowing

**EXTERNAL Email**

Christian,

Let's have a joint call for both the Kingston case and the Phison case to streamline today's meet and confer.

Best,
Peter

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**From:** Peter Yi <peter.yi@hsuanyeh.com>
**Sent:** Friday, June 6, 2025 8:36 AM
**To:** Christian Dorman <cdorman@McKoolSmith.com>; Douglas Chin <doug.chin@hsuanyeh.com>; Edward Runyan <Ed.Runyan@hsuanyeh.com>; Hsuanyeh Chang <hsuanyeh@hsuanyeh.com>; Stephen Chow <stephen.y.chow@hsuanyeh.com>
**Cc:** Vervain-Phison-MS <Vervain-Phison-MS@mckoolsmith.com>
**Subject:** Re: Vervain/Phison - Meet and Confer Re/ Narrowing

Christian,

We are available between 2:30pm and 5pm Eastern.

Best,
Peter

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**From:** Christian Dorman <cdorman@McKoolSmith.com>
**Sent:** Friday, June 6, 2025 7:40:28 AM
**To:** Douglas Chin <doug.chin@hsuanyeh.com>; Edward Runyan <Ed.Runyan@hsuanyeh.com>; Hsuanyeh Chang <hsuanyeh@hsuanyeh.com>; Peter Yi <peter.yi@hsuanyeh.com>; Stephen Chow <stephen.y.chow@hsuanyeh.com>
**Cc:** Vervain-Phison-MS <Vervain-Phison-MS@mckoolsmith.com>
**Subject:** Vervain/Phison - Meet and Confer Re/ Narrowing

Counsel,

The Scheduling Order requires that the parties meet today "to discuss significantly narrowing the number of claims asserted and prior art references at issue."

Please let us know your availability to meet today to discuss this issue.

Thanks,
Christian

McKool Smith

**Christian Dorman**
Associate

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