Bruns, Sydney E.

From: Goldstein, Joanna G. <jgoldstein@windelsmarx.com>
Sent: Monday, April 28, 2025 12:57 PM
To: Kasaraneni, Karthik
Cc: Ast-Gmoser, Robyn; Fleischacker, Justin T.; Miller, Andrew; Huttner, Constance; Emily Greek; Morris James Paralegals; Ken Dorsney; Cortlan S. Hitch; Katie J. Hunt; Ashkenazi, Isaac S.; Sperling, Mark; Kruse, Stephen; PH-Heron-Slayback; JTigan@morrisnichols.com; Steiner, Elham F.
Subject: [EXT] RE: Heron v. Slayback - Reduction of asserted claims

--- External Email ---

Report Suspicious

Counsel,

We disagree that Heron has complied with the Court's Scheduling Order. As noted in our previous emails, Judge Bryson clearly ordered Heron to narrow the asserted claims to those expected to be asserted at trial. Heron's latest list still contains 19 claims across 6 patents and includes the "duplicative material" specifically addressed by Judge Bryson during the December 30, 2024 conference. As noted in our April 24 email correspondence below, we will seek the Court's intervention regarding a meaningful reduction of the asserted claims and a commensurate extension of the parties' expert discovery deadlines due to Heron's delay.

Regards,
Joanna

From: Kasaraneni, Karthik <karthikkasaraneni@paulhastings.com>
Sent: Friday, April 25, 2025 7:56 PM
To: Goldstein, Joanna G. <jgoldstein@windelsmarx.com>
Cc: Ast-Gmoser, Robyn <rast-gmoser@windelsmarx.com>; Fleischacker, Justin T. <justinfleischacker@paulhastings.com>; Miller, Andrew <amiller@windelsmarx.com>; Huttner, Constance <chuttner@windelsmarx.com>; Emily Greek <EGreek@morrisjames.com>; Morris James Paralegals <MJIPPara@morrisjames.com>; Ken Dorsney <kdorsney@morrisjames.com>; Cortlan S. Hitch <CHitch@morrisjames.com>; Katie J. Hunt <KHunt@morrisjames.com>; Ashkenazi, Isaac S. <isaacashkenazi@paulhastings.com>; Sperling, Mark <marksperling@paulhastings.com>; Kruse, Stephen <stephenkruse@paulhastings.com>; PH-Heron-Slayback <PH-Heron-Slayback@paulhastings.com>; JTigan@morrisnichols.com; Steiner, Elham F. <esteiner@windelsmarx.com>
Subject: RE: Heron v. Slayback - Reduction of asserted claims

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Counsel,

We disagree with your suggestion that Heron did not comply with its obligations under the Scheduling Order by April 15. We have explained that Heron satisfied that deadline via its substantial reduction of

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asserted patents and claims in February. We have also always indicated that we would narrow the claims again after Heron's remaining noticed depositions.

Accordingly, we now write to streamline the case and narrow the number of issues both for the parties and for Judge Bryson. The asserted claims in this case are:

- U.S. Patent No. 9,561,229: Claims 6, 10, 16
- U.S. Patent No. 9,974,793: Claims 3, 7, 17
- U.S. Patent No. 9,974,794: Claims 6, 10, 16
- U.S. Patent No. 11,744,800: Claims 2, 14, 21
- U.S. Patent No. 12,115,254: Claims 5, 6, 7
- U.S. Patent No. 12,115,255: Claims 5, 6, 19, 23

Heron is now not asserting any claims from the following patents (this list also includes patents from which Heron had already not been asserting any claims):

- U.S. Patent No. 9,808,465
- U.S. Patent No. 9,974,742
- U.S. Patent No. 10,500,208
- U.S. Patent No. 10,624,850
- U.S. Patent No. 10,953,018
- U.S. Patent No. 11,173,118

This narrowing is made in reliance on Slayback's compliance with D.I. 80 at ¶ 3, as well as its interrogatory responses, its document production, and the testimony of the witnesses noticed by Heron. Heron reserves all rights to the extent any information produced by Slayback, discovery responses provided by Slayback, or testimony of the witnesses noticed by Heron are inaccurate or incomplete.

Regards,
Karthik

From: Goldstein, Joanna G. <jgoldstein@windelsmarx.com>
Sent: Thursday, April 24, 2025 5:36 PM
To: Kasaraneni, Karthik <karthikkasaraneni@paulhastings.com>
Cc: Ast-Gmoser, Robyn <rast-gmoser@windelsmarx.com>; Fleischacker, Justin T. <justinfleischacker@paulhastings.com>; Miller, Andrew <amiller@windelsmarx.com>; Huttner, Constance <chuttner@windelsmarx.com>; Emily Greek <EGreek@morrisjames.com>; Morris James Paralegals <MJIPPara@morrisjames.com>; Ken Dorsney <kdorsney@morrisjames.com>; Cortlan S. Hitch <CHitch@morrisjames.com>; Katie J. Hunt <KHunt@morrisjames.com>; Ashkenazi, Isaac S. <isaacashkenazi@paulhastings.com>; Sperling, Mark <marksperling@paulhastings.com>; Kruse, Stephen <stephenkruse@paulhastings.com>; PH-Heron-Slayback <PH-Heron-Slayback@paulhastings.com>; JTigan@morrisnichols.com; Steiner, Elham F. <esteiner@windelsmarx.com>
Subject: [EXT] Re: Heron v. Slayback - Reduction of asserted claims

Counsel – As already discussed in our April 18 meet and confer and the emails below, 88 claims across 7 patents does not adhere to Judge Bryson's directive to Mr. Ashkenzai in the December 30, 2024 court conference. (2024-12-30 Court Conference Tr. at 31 ("By let's say April 15th, I would like you to, Mr. Ashkenazi, to indicate how much you realistically

expect to go to trial with. And I will trust you to do, as was done in the first case and I gathered in the second, to make a realistic pairing down of the case, and not leave a lot of duplicative material in there to just gum up the case. So that by April 15th.”).

As you know, only 5 claims were asserted in the Heron v. Fresnius litigation. Heron’s current asserted claims - 88 claims - are entirely unrealistic for trial. We are at an impasse. We will seek the Court’s intervention regarding a reduction of the asserted claims on Monday April 28.
-Joanna

On Apr 22, 2025, at 1:30 PM, Kasaraneni, Karthik <karthikkasaraneni@paulhastings.com> wrote:

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Counsel,

We indicated on Friday’s meet and confer that we complied early with our April 15 obligation under the Scheduling Order, including by dropping five patents in their entirety and many claims from the remaining seven patents when we served our contentions on February 12. This early culling demonstrated the seriousness with which we took Judge Bryson’s comments during the December 30 conference, and your attempt to suggest otherwise is not well taken. There was no requirement that we make any reduction to our asserted claims in February, let alone such a substantial one, and Slayback has undoubtedly benefitted throughout the rest of fact discovery from that very gesture.

As we further indicated on the meet and confer, Heron’s fact depositions have been ongoing because of Slayback’s prejudicial delay in producing documents and Heron’s noticed witnesses. We have nonetheless been working with you to get through the remaining depositions on a reasonable schedule without Court intervention, and in that same spirit, we also indicated on the meet and confer that we would continue to narrow claims as we approached trial, including after the completion of Heron’s fact depositions. Your attempt to ignore this context and use Heron’s early compliance with the Scheduling Order to threaten to seek a unilateral extension of Slayback’s opening expert report deadline from the Court is improper and unjustified.

We are willing to discuss a limited extension of both parties’ expert discovery deadlines if Slayback has a reasonable proposal for us to consider.

Regards,
Karthik

From: Goldstein, Joanna G. <jgoldstein@windelsmarx.com>
Sent: Monday, April 21, 2025 12:23 PM
To: Kasaraneni, Karthik <karthikkasaraneni@paulhastings.com>; Ast-Gmoser, Robyn <rast-gmoser@windelsmarx.com>; Fleischacker, Justin T. <justinfleischacker@paulhastings.com>; Miller, Andrew <amiller@windelsmarx.com>; Huttner, Constance <chuttner@windelsmarx.com>; Emily Greek <EGreek@morrisjames.com>; Morris James Paralegals <MJIPPara@morrisjames.com>; Ken Dorsney <kdorsney@morrisjames.com>; Cortlan S. Hitch <CHitch@morrisjames.com>; Katie J. Hunt <KHunt@morrisjames.com>
Cc: Ashkenazi, Isaac S. <isaacashkenazi@paulhastings.com>; Sperling, Mark <marksperling@paulhastings.com>; Kruse, Stephen <stephenkruse@paulhastings.com>; PH-Heron-Slayback <PH-Heron-Slayback@paulhastings.com>; JTigan@morrisnichols.com
Subject: [EXT] RE: Heron v. Slayback - Reduction of asserted claims

Counsel – Further to our meet and confer on Friday, I write regarding Heron's court-ordered "deadline for plaintiff to narrow claims" which passed on April 15, 2025. (Dkt. No. 111). Heron served nothing. Your position in our meet and confer was that Heron reduced the claims significantly when serving its contentions in February. This position is unreasonable and indefensible. By our count, Plaintiff is still asserting 88 claims across 7 patents. Heron advised that it would not further narrow the asserted claims at this time but would consider reducing the number of claims as discovery continued. This does not meet the Court's orders.

As you know, Judge Bryson told Isaac Ashkenazi during the December 30, 2024 court conference that "[b]y let's say April 15th, I would like you to, Mr. Ashkenazi, to indicate how much you realistically expect to go to trial with. And I will trust you to do, as was done in the first case and I gathered in the second, to make a realistic pairing down of the case, and not leave a lot of duplicative material in there to just gum up the case. So that by April 15th." (2024-12-30 Court Conference Tr. at 31). We do not believe that the current number of asserted claims meets the Court's directive to Mr. Ashkenazi. Heron's admission in the meet and confer that it will reduce the number of claims as discovery proceeds and trial nears is an explicit admission that the current number of claims is not a reasonable number to assert at the planned 4-day trial.

We await your immediate reduction of the number of claims to those which you will assert at trial. Please respond with these reduced claims by Tuesday April 22 at 5pm or we will approach the Court to address this issue.

Moreover, your claim reduction was due on April 15 - approximately 3.5 weeks prior to our opening expert reports on May 9. You are significantly delaying defendant's ability to prepare focused reports by your refusal to reduce the claims. For each day beyond April 15 you delay in providing your reduced claims, we intend to seek an equivalent extension of time to extend the schedule for our opening expert reports.
-Joanna

From: Kasaraneni, Karthik <karthikkasaraneni@paulhastings.com>
Sent: Friday, April 18, 2025 3:52 PM
To: Goldstein, Joanna G. <jgoldstein@windelsmarx.com>; Ast-Gmoser, Robyn <rast-gmoser@windelsmarx.com>; Fleischacker, Justin T. <justinfleischacker@paulhastings.com>; Miller, Andrew <amiller@windelsmarx.com>; Huttner, Constance <chuttner@windelsmarx.com>; Emily Greek <EGreek@morrisjames.com>; Morris James Paralegals <MJIPPara@morrisjames.com>; Ken Dorsney <kdorsney@morrisjames.com>; Cortlan S. Hitch <CHitch@morrisjames.com>; Katie J. Hunt <KHunt@morrisjames.com>
Cc: Ashkenazi, Isaac S. <isaacashkenazi@paulhastings.com>; Sperling, Mark <marksperling@paulhastings.com>; Kruse, Stephen <stephenkruse@paulhastings.com>; PH-Heron-