

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Plaintiff,

v.

Case No.

Honorable Sean F. Cox

Defendant.

_____ /

NOTICE AND ORDER SETTING
SCHEDULING CONFERENCE IN PATENT INFRINGEMENT CASE

Counsel are hereby notified to appear on _____ at _____ in the Chambers of Judge Sean F. Cox, Room 257, Theodore Levin U.S. Courthouse, 231 West Lafayette, Detroit, Michigan for a Scheduling Conference in the above-referenced action.

The Court further **ORDERS** as follows:

- **MODEL RULE 26(F) REPORT AND SCHEDULING ORDER**: In order to efficiently manage patent infringement cases, this Court has adopted a Model Rule 26(f) Report and Proposed Scheduling Order, a copy of which is attached to this Notice and Order. The Court intends that the model scheduling order guide the parties in the types of provisions and the timeline that the parties should propose to the Court as their discovery plan pursuant to Rule 26(f) of the Federal Rules of Civil Procedure. The Court schedules the typical patent infringement case for trial approximately 24-26 months after the Scheduling Conference. The parties may propose modifications and additional provisions to the model scheduling order and/or may propose an alternative timeline, as needed based upon the facts and circumstances of the particular case.
- **USE OF A SPECIAL MASTER**: At the Scheduling Conference, the parties should be prepared to discuss the potential use of a special master or technical advisor in this case.

- SETTLEMENT: At the Scheduling Conference, the parties should be prepared to discuss the likelihood of settlement. Before attending the Scheduling Conference, the attorneys should discuss settlement options and mediation/facilitation with their clients. Clients are not required to attend the Scheduling Conference.
- INFORMAL TECHNOLOGY TUTORIAL: Before any claim construction briefs are submitted, the Court typically schedules an informal tutorial on the technology involved in the case. The purpose of the informal tutorial is to give the Court an understanding and background of the technology at issue in the case. The tutorial is not on the record.
- LENGTH OF CLAIM CONSTRUCTION BRIEFS: Each party's opening claim construction brief shall not exceed 25 pages (i.e., plaintiff's opening claim construction brief and defendant's response brief), unless a page extension is granted by the Court. The plaintiff's reply brief shall not exceed 5 pages. If the parties believe that they need an extension of the page limitations, they must file a written motion setting forth the reasons for the extension.
- CLAIM CONSTRUCTION HEARING: The Court typically does not hear live testimony at the claim construction hearing. However, on a case-by-case basis, the Court may allow live expert testimony from a person of ordinary skill in the art. If the Court allows expert testimony, each side is typically limited to one hour of live testimony. A request for live testimony must be made by written motion.
- DEFAULT PROTECTIVE ORDER: The Court recognizes that during discovery the parties will likely need to disclose confidential and/or proprietary business information (e.g., trade secrets, financial information, etc.) that is not publicly available. In order to protect the parties' confidential and proprietary information, the Court will automatically enter a default protective order. The purpose of the default protective order is to allow the parties to begin discovery as soon as possible and to minimize the time and expense to the parties. The parties may propose modifications to the Court's default protective order, or agree to an entirely new protective order, but discovery should commence to the extent possible under the default protective order until a new or modified protective order has been entered.

IT IS SO ORDERED.

/s/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: December 23, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 23, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager