

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Plaintiff(s),

v.

Case No.

Defendant(s).

Honorable Laurie J. Michelson
Magistrate Judge

**ORDER TO ATTEND SCHEDULING CONFERENCE AND
NOTICE OF REQUIREMENTS FOR SUBMISSION OF DISCOVERY PLAN**

The parties are hereby directed to appear for a Case Management and Scheduling Conference (the “Conference”) on _____, at _____ in the chambers of the Honorable Laurie J. Michelson, 231 West Lafayette, Room 648, Theodore Levin U.S. Courthouse, Detroit, Michigan.

The purpose of this Conference is to make the Court aware of the issues involved, discuss the possibility of settlement, and to establish appropriate case management dates. Prior to the Conference, counsel shall meet and confer in order to prepare a Joint Case Management Report/Discovery Plan (the “Plan”) in accordance with Federal Rule of Civil Procedure 26(f). The Plan shall follow the format and address the Agenda Items listed below. The Plan must be filed with the Court no later than **five (5) calendar days** before the Conference. If any party is proceeding without counsel, separate Plans may be filed.

Following the Conference, the Court will enter a Case Management and Scheduling Order largely based on the “Model Case Management and Scheduling Order for Patent Cases” (“Model Order”) available on Judge Michelson’s webpage (part of the Eastern District of Michigan’s website). The Model Order is comprehensive and intended to govern most aspects of the case.

The following Agenda Items are to be addressed in the written Plan:

Modifications to Model Order: Identify and explain, after careful study of the Model Case Management and Scheduling Order for Patent Cases, any desired modifications to the Model Order and the “Model Protective Order” attached as Appendix A to the Model Order. The Court notes that modifying some deadlines or requirements in the Model Order will likely require the parties to adjust other deadlines or requirements.

Related Cases: Identify any pending related cases or previously adjudicated related cases.

Jurisdiction: Explain the basis of the Court’s subject-matter jurisdiction over the Plaintiff’s claims and Defendant’s counter-claims. Plaintiff should also identify any pendant state law claims. If any Defendants remain unserved, explain the plan to complete service.

Factual Summary: Provide a brief description of the nature of the action and a summary of Plaintiff’s claims and Defendant’s defenses.

Legal Issues: Identify the legal issues genuinely in dispute. Also identify any dispositive or partially dispositive issues appropriate for decision by motion or by agreement.

The Court strongly urges the parties to consider having the party asserting patent infringement identify one or two “paradigm” claims that are allegedly infringed and then allowing the case to proceed on only these claims (while infringement or invalidity assertions related to other claims are stayed). If the parties choose to proceed on a paradigm-claim approach, they should adapt the Model Order accordingly.

Amendment of Pleadings: Identify any anticipated amendments of pleadings to add or delete claims, defenses, or parties. The Court expects the parties to be familiar with the Federal Rules of Civil Procedure regarding amendment of pleadings, including those rules that pertain to amendment as of right.

Discovery: (a) Summarize the discovery each party intends to pursue, including expert witnesses and any anticipated disputes; (b) Explain the arrangements for exchanging initial disclosures required by Fed. R. Civ. 26(a)(1) and the Model Scheduling and Case Management Order; (c) Indicate whether any changes should be made in the limitations on discovery imposed by the Federal and Local Rules and the Model Scheduling and Case Management Order; and (d) Indicate whether it may be appropriate to bifurcate discovery for infringement, invalidity, and damages or otherwise.

Electronic Discovery: Explain the parties’ plan for dealing with electronic discovery and whether implementation of this District’s [Model Order Relating to the Discovery of Electronically Stored Information](#) or the Northern District of Illinois’s [Local Patent Rules for Electronically Stored Information](#) is warranted.

Settlement: Explain the prospects for settlement and whether the parties are interested in Case Evaluation (see [E.D. Mich. LR 16.3](#)) or other methods of alternate dispute resolution.

Consent: Indicate whether the parties consent to the jurisdiction of a United States Magistrate Judge as provided in 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73.

Special Master or Technical Advisor: Explain the potential benefits and drawbacks of appointing a special master or technical advisor in this case.

Trial: Identify whether this will be a jury or bench trial and the estimated length of trial.

Miscellaneous: Identify any other matters any party considers conducive to the just, speedy, and efficient resolution of this matter.

Each party shall appear personally or by counsel and be prepared to address these Agenda Items. For good cause, however, the Court will consider conducting the conferences by telephone. Requests are to be directed to the Case Manager at the number below.

Required rules, forms, and pretrial practices are available on the Court's website at www.mied.uscourts.gov and [Judge Michelson's website](#).

SAMPLE