

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MICROUNITY SYSTEMS ENGINEERING, INC.,)	
)	
)	
Plaintiff,)	Case No. 2:10-CV-91 (TJW)
)	
v.)	JURY TRIAL DEMANDED
)	
(1) ACER INC., (2) ACER AMERICA CORPORATION, (3) APPLE, INC., (4) AT&T INC., (5) AT&T MOBILITY LLC, (6) CELLCO PARTNERSHIP, (7) EXEDEA, INC., (8) GOOGLE INC., (9) HTC CORPORATION, (10) HTC AMERICA, INC., (11) LG ELECTRONICS, INC., (12) LG ELECTRONICS MOBILECOMM U.S.A., INC., (13) MOTOROLA, INC., (14) NOKIA CORPORATION, (15) NOKIA INC., (16) PALM, INC., (17) QUALCOMM INC., (18) SAMSUNG ELECTRONICS CO., (19) SAMSUNG, SEMICONDUCTOR INC., (20) SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, (21) SPRINT NEXTEL CORPORATION, (22) TEXAS INSTRUMENTS INC.,)	
)	
Defendants.)	

DOCKET CONTROL ORDER

In accordance with the case status conference held herein on the 16th day of February, 2011, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

SCHEDULING ORDER

June 3, 2013	Jury Selection - 9:00 A.M. in Marshall, Texas
May 31, 2013	Mediation to be completed

If the parties agree that mediation is an option, the Court will appoint a mediator or the parties will mutually agree upon a mediator. If the parties choose the mediator, they are to inform the Court by letter the name and address of the mediator. The courtroom deputy will immediately mail out a “mediation packet” to the mediator for the case. The mediator shall be deemed to have agreed to the terms of Court Ordered Mediation Plan of the United States District Court of the Eastern District of Texas by going forth with the mediation. General Order 99-2.

May 23, 2013	Pretrial Conference – 9:00 a.m. in Marshall, Texas ¹
May 17, 2013	Objections to Separately Proposed Jury Instructions and Form of the Verdict
May 15, 2013	Objections to Exhibit List and Deposition Designations
May 10, 2013	Responses to Motions <i>in Limine</i> The parties are ordered to meet and confer on their respective motions <i>in limine</i> and advise the court of any agreements in this regard by 1:00 P.M. three business days before the pretrial conference. The parties shall limit their motions <i>in limine</i> to those issues which, if improperly introduced into the trial of the case, would be so prejudicial that the court could not alleviate the prejudice with appropriate instruction(s).
May 6, 2013	Joint Final Pretrial Order, Joint and Separately Proposed Jury Instructions and Form of the Verdict
May 3, 2013	Motions <i>in Limine</i>
May 1, 2013	Notice of Request for Daily Transcript or Real Time Reporting of Court Proceedings If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Susan Simmons, at lssimmons@yahoo.com.
May 1, 2013	Witness List, Exhibit List, and Deposition Designations
April 22, 2013	Each party to provide to other parties its information for: (i) Joint

¹ The parties propose that the Pretrial Conference occur in mid-May 2013, subject to the Court’s availability.

Final Pretrial Order, (ii) Joint Jury Instructions, and (iii) Joint Form of the Verdict

April 12, 2013

Last day to file replies to dispositive motions and any other motions that require a hearing (including *Daubert* Motions)

Any responses to dispositive motions filed prior to this dispositive motion deadline, including *Daubert* Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV-56.²

March 29, 2013

Last day to file oppositions to dispositive motions and any other motions that require a hearing (including *Daubert* Motions)

Any responses to dispositive motions filed prior to this dispositive motion deadline, including *Daubert* Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV-56.³

March 1, 2013

Last day to file dispositive motions and any other motions that require a hearing (including *Daubert* Motions)

Responses to dispositive motions filed prior to the dispositive motion deadline, including *Daubert* Motions, shall be due in accordance with Local Rule CV-7(e). Motions for Summary Judgment shall comply with Local Rule CV-56.⁴

² The parties are directed to Local Rule CV-7(d), which provides in part that “[i]n the event a party fails to oppose a motion in the manner prescribed herein the court will assume that the party has no opposition.” Local Rule CV-7(e) provides that a party opposing a motion has 14 days, in addition to any added time permitted under Fed. R. Civ. P. 6(e), in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision.

³ The parties are directed to Local Rule CV-7(d), which provides in part that “[i]n the event a party fails to oppose a motion in the manner prescribed herein the court will assume that the party has no opposition.” Local Rule CV-7(e) provides that a party opposing a motion has 14 days, in addition to any added time permitted under Fed. R. Civ. P. 6(e), in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision.

⁴ The parties are directed to Local Rule CV-7(d), which provides in part that “[i]n the event a party fails to oppose a motion in the manner prescribed herein the court will assume that the party has no opposition.” Local Rule CV-7(e) provides that a party opposing a motion has 14

February 15, 2013	Close of discovery
60 days after Markman, Ruling or December 20, 2012, whichever is later	Designate Rebuttal Expert Witnesses other than claims construction witnesses. Expert witness report due. (See Fed. R. Civ. P. 26(a)(2) and Local Rule CV-26(b) for information required to be disclosed)
30 days after Markman Ruling, or November 15, 2012, whichever is later	Party with burden of proof to designate Expert Witnesses other than claims construction witnesses. Expert witness report due. (See Fed. R. Civ. P. 26(a)(2) and Local Rule CV-26(b) for information required to be disclosed)
August 21, 2012	Markman Hearing
July 20, 2012	Each side to submit technical tutorial to the Court
July 13, 2012	Plaintiff to comply with Patent Local Rule 4-5(c); Parties to comply with Patent Local Rule 4-5(d)
June 29, 2012	Defendants to comply with Patent Local Rule 4-5(b)
May 31, 2012	Plaintiff to comply with Patent Local Rule 4-5(a)
May 27, 2012	Completion of Claim Construction Discovery (Patent Local Rule 4-4)
May 20, 2012	Plaintiff to serve reply claim construction expert declaration(s)
May 11, 2012	Defendants to serve claim construction expert declaration(s)
April 22, 2012	Plaintiff to serve opening claim construction expert declaration(s)
April 20, 2012	Privilege logs to be exchanged by parties (or a letter to the Court stating that there are no disputes as to claims of privileged documents)
April 13, 2012	Parties to comply with Patent Local Rule 4-3

days, in addition to any added time permitted under Fed. R. Civ. P. 6(e), in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision.

March 26, 2012	Amend Pleadings (It is not necessary to file a Motion for Leave to Amend before the deadline to amend pleadings except to the extent the amendment seeks to add a new patent in suit against any defendant. It is necessary to file a Motion for Leave to Amend after the amended pleadings date set forth herein.)
March 9, 2012	Parties to comply with Patent Local Rule 4-2(a) and (b) ⁵
February 24, 2012	Defendants to narrow the number of asserted prior art references. ⁶
February 10, 2012	Parties to comply with Patent Local Rule 4-1
February 3, 2012	Parties to complete meet and confer process over narrowing of Defendants' asserted prior art references. Without agreement, Plaintiff may move for emergency relief after the conclusion of the meet and confer process, and the parties will conduct expedited briefing on this issue.
January 6, 2012	Plaintiff to narrow the number of asserted claims to no more than 90 total ⁷
December 23, 2011	Parties to complete rolling production of documents "relevant" to claim or defense; Defendants to comply with Patent Local Rule 3-7

⁵ Expert declarations filed in support of proposed claim constructions need not be submitted by February 10, 2012.

⁶ It is Defendants' position that it is premature to quantify the reduction of prior art references until the invalidity contentions have been served and Defendants have had an opportunity to review Plaintiff's reduction of asserted claims. Defendants are willing to continue to meet and confer with Plaintiff on this issue. It is Plaintiff's position that a set limit on the number of prior art references should be agreed to by Defendants, or absent agreement set by the Court, by February 24, 2012.

⁷ It is Plaintiff's position that ninety (90) asserted claims is an appropriate number as of January 2012. Plaintiff is willing to meet and confer after the Markman order for a further narrowing of claims. It is Defendants' position that ninety (90) asserted claims is an excessive number. Defendants reserve the right to seek a further narrowing of the asserted claims during a later stage of the case, including after the Markman hearing and/or prior to the commencement of trial.

September 30, 2011	Join additional parties; Additional Disclosures per Discovery Order (including start of rolling production of documents “relevant” to claim or defense)
September 16, 2011	Defendants to comply with Patent Local Rule 3-3 and 3-4(a) & (b)
June 20, 2011	Initial Disclosures Due; Plaintiff to comply with Patent Local Rule 3-2
April 15, 2011	Parties to submit proposed Protective Order, and any disagreements related to it, to the Court
March 23, 2011	Plaintiff to comply with Patent Local Rule 3-1

LIMITATIONS ON MOTIONS PRACTICE

Summary Judgment Motions: Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than sixty (60) days before the deadline for filing summary judgment motions. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted.

Motions to Strike Expert Testimony/Daubert Motions: Prior to filing any Motions to Strike or Daubert Motions, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than three (3) pages and shall be filed with the Court no later than sixty (60) days before the deadline for filing Motions to Strike or Daubert Motions. Answering letter briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than two (2) pages and filed with the Court no later than five (5) days thereafter. The Court may hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted.

For all of the above mentioned motions, the letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

OTHER LIMITATIONS

1. All depositions to be read into evidence as part of the parties' case-in-chief shall be **EDITED** so as to exclude all unnecessary, repetitious, and irrelevant testimony; **ONLY** those portions which are relevant to the issues in controversy shall be read into evidence.

2. The Court will refuse to entertain any motion to compel discovery filed after the date of this Order unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter. *See* Eastern District of Texas Local Rule CV-7(h).

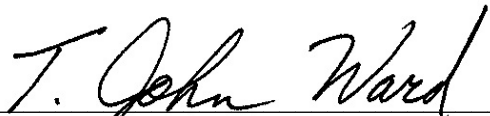
3. The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

(a) The fact that there are motions for summary judgment or motions to dismiss pending;

(b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;

(c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

SIGNED this 3rd day of May, 2011.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE