UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

Plaintiff,

v. Case No. 2: -cv- -FtM-

Defendant.

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**CASE MANAGEMENT REPORT—PATENT CASES**[[1]](#footnote-1)

The parties agree to these dates and discovery plan under Federal Rule of Civil Procedure 26 and Local Rule 3.05:

| **DEADLINE** | **AGREED DATE** |
| --- | --- |
| **Corporate Disclosure Statements** [Due immediately upon each party’s first appearance] | Plaintiff filed on Select DateDefendant filed on Select Date |
| **Rule 26(a)(1) Initial Disclosures** [Due 14 days after Rule 26(f) conference]  | [ ]  Exchanged[ ]  To be exchanged by Select Date |
| **Motions to Add Parties or Amend Pleadings** [Court recommends 1 to 2 months after the Rule 26(f) conference] | Select Date |
| **Disclosure of Infringement Contentions**[[2]](#footnote-2) [Court recommends 1 month after Rule 26(f) conference] | Select Date |
| **Disclosure of Non-Infringement and Invalidity Contentions** [Court recommends within 1 month of disclosing infringement contentions] | Select Date |
| **Initial Identification of Disputed Claim Terms**[Court recommends within 1 month of disclosing non-infringement and invalidity contentions] | Select Date |
| **Proposed Claim Term Constructions** [Court recommends within 1 month of initial identification of disputed claim terms] | Select Date |
| **Joint Claim Construction Statement**[Court recommends within 2 weeks of proposed claim term constructions] | Select Date |
| **Technology Tutorial Conference**[Court recommends within 2 weeks of the joint claim construction statement] | Select Date |
| **Claim Construction Briefs**[Court recommends within 1 month of any technology tutorial conference] | Select Date |
| **Response Briefs**[Court recommends within 1 month of Plaintiff’s claim construction brief] | Select Date |
| **Joint Pre-Hearing Statement** [Court recommends within 1 week of Defendant’s response brief] | Select Date |
| **Claim Construction Hearing** [Court recommends within 2 weeks of Joint Pre-Hearing Statement] | Select Date |
| **Disclosure of Intent to Rely on Advice of Counsel as Defense; Amendment of Infringement, Non-Infringement and Invalidity Contentions; and Disclosure of Expert Reports on Issues Where the Party Bears the Burden of Proof**[Court recommends between 3 and 5 months of the claim construction hearing] | Select Date |
| **Disclosure of Expert Reports** [Court recommends the last disclosure to occur 1 to 2 months before the discovery deadline] | Plaintiff: Select DateDefendant (includes rebuttal): Select DatePlaintiff Rebuttal: Select Date |
| **Discovery** [Court recommends 6 to 8 months before the trial term so it can decide dispositive motions] | Select Date |
| **Dispositive and *Daubert* Motions**[Court recommends at least 4 months before the meeting to prepare the joint final pretrial statement] | Select Date |
| **Meeting in Person to Prepare Joint Final Pretrial Statement**[Court recommends 1 month before the Final Pretrial Conference] | Select Date |
| **Motions in Limine**[Court recommends 3 days before the deadline for Joint Final Pretrial Statement and Trial Briefs]  | Select Date |
| **Joint Final Pretrial Statement and Trial Briefs**[Court recommends 3 weeks before the Final Pretrial Conference]  | Select Date |
| **Final Pretrial Conference**  | Select Date |
| **Monthly Trial Term**[Cases are scheduled for a monthly trial term—not a specific date. The Court recommends 20 to 22 months after the case is filed or removed]  | Month Year  |
| **Estimated Length of Trial**  | Select days  |
| **Jury or Non-Jury** | Select |
| **Mediation** [Court recommends mediation after the discovery deadline but before dispositive motions] | Deadline: Select DateMediator: |
| **Settlement** | [ ]  Likely[ ]  Unlikely |
| **Has any party sought inter partes review before the Patent and Trial Appeal Board of the United States Patent and Trademark Office?** | [ ]  Yes by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[ ]  No[ ]  Likely to Request in Future |
| **All Parties Consent to the Assigned Magistrate Judge**[[3]](#footnote-3) | [ ]  For all purposes including trial[ ] For some purposes like class certification, summary judgment, or motions for a final order or judgment (please list)[ ] For no other purpose beyond authority granted by statute, rule, and referral  |
| **All Parties Request a Settlement Conference with a Magistrate Judge**  | [ ]  Yes[ ]  No[ ]  Likely to Request in Future |
| **Related Case Notice Completed and Attached** (Attachment A and available on the assigned district judge’s website) | [ ]  Yes |

1. **Preliminary Pretrial Conferences**

**For cases assigned to United States District Judge Sheri Polster Chappell and United States District Judge John L. Badalamenti**, the assigned Magistrate Judge will hold a preliminary pretrial conference (“PPTC”) in most cases after the parties file this Case Management Report. The parties should expect to discuss these topics at the PPTC: the facts, unique issues anticipated by counsel, the Court’s case management practices and procedures, deadlines to govern the case, prospects of settlement, pending motions, scope of discovery, need for expert witnesses, length of trial, and calendar conflicts. Unresolved issues to discuss at the PPTC include:

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After the PPTC, the assigned Magistrate Judge will issue a Case Management and Scheduling Order to govern the case.

**For cases assigned to Senior United States District Judge John E. Steele**, a preliminary pretrial conference is mandatory only in Track Three cases. The Court will consider a request to re-track a Track Two case to a Track Three case only after a class is certified and/or motions to dismiss have been decided in complex actions. For Track Two cases, Judges Barber and Steele will issue Case Management and Scheduling Orders after the parties file a Case Management Report.

1. **Discovery**

The parties must **jointly** file—along with this Case Management Report and Related Case Notice—the “Pretrial & Discovery Plan” found on the assigned Magistrate Judge’s website.[[4]](#footnote-4) The Pretrial & Discovery Plan, Case Management Report, and Related Case Notice must be filed as **three separate docket entries**. The parties must also follow the [Discovery Handbook](https://www.flmd.uscourts.gov/civil-discovery-handbook) for the Middle District of Florida available on the Court’s website.

1. **Mediation**

 Without mandatory arbitration or a Court order otherwise, the parties in every case **must** participate in mediation. The parties must select a mediator from the Court’s [approved list of mediators](http://apps.flmd.uscourts.gov/mediator/pub/MediatorList.pdf) found on its website.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Counsel (per Local Rule 1.05) and Unrepresented Parties:

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1. The Court is not responsible for a hyperlink’s availability and functionality, and a failed hyperlink does not affect this Order. [↑](#footnote-ref-1)
2. For detailed information on the requirements for patent-specific deadlines, the parties should consult the form Patent Case Management and Scheduling Order on the assigned district judge’s website. [↑](#footnote-ref-2)
3. If the parties wish to voluntarily consent to the assigned Magistrate Judge, they must sign and file either the [AO Form 85](https://www.flmd.uscourts.gov/sites/flmd/files/forms/flmd-ao85-notice-consent-and-reference-of-a-civil-action-to-a-magistrate-judge.pdf) (consent for all purposes including trial) or [AO Form85A](https://www.flmd.uscourts.gov/sites/flmd/files/forms/mdfl-ao85a-notice-consent-and-reference-of-a-dispositive-motion-to-a-magistrate-judge.pdf) (consent for some purpose like a specific motion) found on the Court’s website. [↑](#footnote-ref-3)
4. For electronic filing through CM/ECF, use the event under Civil – Other Filings – Other Documents – Pretrial and Discovery Plan. [↑](#footnote-ref-4)