IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BAXTER HEALTHCARE CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 18-303-RGA
	)	
HOSPIRA, INC. and ORION CORP.,	)	
	)	
Defendants.	)	

[PROPOSED] SCHEDULING ORDER

This 27 day of April, 2018, the Court having ~~conducted~~ waived an initial Rule 16(b) scheduling conference pursuant to Local Rules 16.1(b), and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Rule 26(a)(1) Initial Disclosures. The parties shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) within fourteen days of this Order, by **May 24, 2018.**

2. Initial Disclosures and Initial Discovery in Patent Litigation.

a. On or before **June 11, 2018**, the parties shall make their initial disclosures pursuant to Section 3 of the Court's Default Standard for Discovery.

b. On or before **June 11, 2018**, Hospira, Inc. and Orion Corp. (collectively, "Defendants") shall specifically identify Baxter Healthcare Corporation's ("Plaintiff") accused products and the asserted patents they allegedly infringe, and produce the file history for each asserted patent.

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c. On or before **July 11, 2018**, Plaintiff shall produce to Defendants the core technical documents related to the accused products, including but not limited to operation manuals, product literature, schematics, and specifications.

d. On or before **August 10, 2018**, Defendants shall produce to Plaintiff initial claim charts relating the accused products to the asserted claims that the products alleged infringe. The initial claim charts shall identify specifically where each element of each asserted claim is found within the accused products, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the accused products that perform the claimed function, and shall also state whether each element of each asserted claim is alleged to be present in the accused products literally or under the doctrine of equivalents.

3. Joinder of Other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings, shall be filed on or before **January 5, 2019**.

4. Discovery.

a. Fact Discovery Cut Off. All fact discovery in this case shall be initiated so that it will be completed on or before ~~**[Baxter proposal:**~~ **November 15, 2018**~~**] [Hospira/Orion proposal: April 15, 2019]**~~.

b. Document Production. Document production shall be substantially complete by ~~**[Baxter proposal:**~~ **August 31, 2018**~~**] [Hospira/Orion proposal: February 15, 2019],**~~

c. On-Site Inspection of Electronic Media. Such an inspection shall not be permitted absent a demonstration by the requesting party of specific need and good cause.

d. Electronically Stored Information (ESI). If the producing party elects to use search terms to locate potentially responsive ESI, it shall disclose the search terms to the

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requesting party on or before **July 15, 2018**. Absent a showing of good cause, a requesting party may request no more than 10 additional terms to be used in connection with the electronic search. Focused terms, rather than over-broad terms (e.g., product and company names) shall be employed. The producing party shall search (i) the non-custodial data sources identified in accordance with paragraph 3(b) of the Court's Default Standard for Discovery; and (ii) emails and other ESI maintained by the custodians identified in accordance with paragraph 3(a) of the Court's Default Standard for Discovery.

e. Requests for Admission. A maximum of **50** requests for admission are permitted for each side. In addition, the parties may serve a reasonable number of requests for admission to establish the authenticity of document. Requests for admission directed to document authentication shall be clearly denoted as such, and shall be served separately from requests for admission subject to the numerical limitations stated above. The parties will work to agree on authentication where possible.

f. Interrogatories. A maximum of **25** interrogatories, including contention interrogatories, are permitted for each side.

g. Depositions.

i. Limitation on Hours for Deposition Discovery. For all deposition discovery other than expert deposition discovery, each side is limited to a total of 10 depositions and 70 hours of taking testimony by deposition upon oral examination. Further, unless otherwise agreed by the parties, the maximum number of deposition hours permitted for any particular person (other than experts) shall be 7 hours, regardless of whether than person is testifying in his individual capacity, as a Rule 30(b)(6) designee, or some combination thereof. For expert deposition discovery, each side shall be entitled to a separate deposition each Rule 26(a)(2)(B)

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report submitted by an expert. The parties shall discuss any further limitations on these expert depositions after service of expert reply reports. If a party believes that additional hours for deposition discovery are necessary, the parties shall meet and confer and try to reach agreement on the amount of additional hours needed, and thereafter, if unable to reach agreement, the parties may seek modification of this provision by submission to the Court.

ii. Location of Depositions. The parties shall meet and confer regarding the locations of depositions, taking into account convenience for the deponent.

h. Discovery Matters and Disputes Relating to Protective Orders. Should counsel find they are unable to resolve a discovery matter or a dispute relating to a protective order, the parties involved in the discovery matter or protective order dispute shall contact the Court's Case Manager to schedule an in-person conference/argument. Unless otherwise ordered, by no later than forty-eight hours prior to the conference/argument, the party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. By no later than twenty-four hours prior to the conference/argument, any party opposing the application for relief may file a letter, not to exceed three pages, outlining that party's reasons for its opposition. Should any document(s) be filed under seal, a courtesy copy of the sealed document(s) must be provided to the Court within one hour of e-filing the document(s).

If a discovery-related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

5. Application to Court for Protective Order. Counsel will confer and attempt to reach an agreement on a proposed form of protective order specifying terms and conditions for

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the disclosure of confidential information and submit it to the Court within thirty days from the date of this Order. Should counsel be unable to reach an agreement on a proposed form of order, counsel must follow the provisions of Paragraph 4(h) above.

Any proposed protective order must include the following paragraph:

> Other Proceedings: By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subject to a motion to disclose another party's information designated as confidential pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard on whether that information should be disclosed.

6. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one copy of the papers. A redacted version of any sealed document shall be filed electronically within seven days of the filing of the sealed document.

7. Courtesy Copies. The parties shall provide to the Court two courtesy copies of all briefs and one courtesy copy of any other document filed in support of any briefs (i.e., appendices, exhibits, declarations, affidavits etc.). This provision also applies to papers filed under seal.

8. Claim Construction Issue Identification. On or before ~~[Baxter proposal:~~ **May 25, 2018**~~] [Hospira/Orion proposal: August 24, 2018]~~, the parties shall exchange a list of those claim term(s)/phrase(s) that they believe need construction and their proposed claim construction of those term(s)/phrase(s). This document will not be filed with the Court. Subsequent to exchanging that list, the parties will meet and confer to prepare a Joint Claim Construction Chart to be filed no later than ~~[Baxter proposal:~~ **June 15, 2018**~~] [Hospira/Orion proposal: September 7, 2018]~~. The Joint Claim Construction Chart, in Word or WordPerfect format, shall

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