

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HIGH ENERGY OZONE LLC et al.,

Plaintiffs,

v.

LARSON ELECTRONICS LLC,

Defendant.

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Civil Action No. 3:21-cv-01166-M

PATENT SCHEDULING ORDER

Pursuant to Fed. R. Civ. P. 16(b) and 26, the Local Civil Rules of this Court (except as modified herein), the Court's Civil Justice Expense and Delay Reduction Plan, and in consideration of any appropriate proposal submitted by the parties, the Court enters this Patent Scheduling Order. *Miscellaneous Order No. 62* is in effect except as set out in this Order. Unless otherwise ordered or specified herein, all limitations and requirements of the Federal Rules of Civil Procedure, as amended, must be observed.

1. **Trial Date:** This case is set for jury trial on this Court's three-week docket beginning Monday, **June 5, 2023**, at 9:00 AM. Counsel and the parties must be ready for trial on two (2) days' notice at any time during this three-week period, unless the Court allows otherwise at the pretrial conference. Any potential conflicts which can now be contemplated must be called to the attention of the Court in writing within ten (10) days of the date of this Patent Scheduling Order.
2. **Joinder of Parties:** By **January 18, 2022**, all motions requesting joinder of additional parties shall be filed. Except when parties are joined by amendment pursuant to

Paragraph 3 of this Scheduling Order, parties may be joined only upon motion to the Court.

3. **Amendment of Pleadings:** By **January 18, 2022**, amendments of pleadings shall be filed. Motions for leave to amend need not be filed so long as the amendment is filed within the deadline set in this paragraph. The amending party shall attach as an exhibit to the amended complaint a redlined version of the complaint. The deadline to file a response to an amended pleading is 21 days after the date the amended pleading is served, notwithstanding expiration of the amended pleading deadline. Thereafter, a party may only amend the pleadings by leave of Court, upon a showing of good cause.
4. **Dispositive Motions:** All motions that would dispose of all or any part of this case, including motions for summary judgment, shall be filed by **February 13, 2023**. Cross-motions for summary judgment shall not, except in truly extraordinary circumstances, be permitted to be filed after the dispositive motion deadline. If the parties seek to extend the dispositive motion deadline closer to the trial date than 90 days, such an extension may mean that the Court may not be able to decide such motions before trial. Delay in deciding motions will not affect the trial date. Briefs in support of responses to summary judgment motions shall be subject to the page restrictions contained in Local Rule 56.5(b). The inclusion of a dispositive motion deadline does not mean that the parties can file more than one motion for summary judgment. If such a motion was filed by a party, that party would have to seek leave to file any additional motion(s) for summary judgment.
5. **Initial Designation of Experts:** Unless otherwise stipulated or directed by Order, any party with the burden of proof on an issue shall file a written designation of the name and address of each expert witness who will testify at trial on such issue(s) and otherwise

comply with Fed. R. Civ. P. 26(a)(2) **within thirty (30) days of the close of fact discovery.**

6. **Responsive Designation of Experts:** Any party without the burden of proof on an issue but who wishes to utilize an expert witness shall file a written designation of the name and address of each expert witness who will testify at trial for that party on such issue(s) and shall otherwise comply with Rule 26(a)(2) **within thirty (30) days after Opening Expert Reports.**
7. **Objections to Experts:** Objections to the qualifications or competency of experts, sometimes referred to as *Daubert* motions, must be made in a written motion **within forty-five (45) days of the close of expert discovery.**
8. **Handling and Protection of Privileged or Trial-Preparation Material:** The parties shall submit, within thirty (30) days of the date of this Order, an agreed protective order for protection of proprietary information that also delineates the handling of attorney-client and attorney-work product information. A party seeking to file documents under seal must first file a public redacted version of the documents it seeks to file under seal. Once the redacted documents have been filed, the party seeking to file the documents under seal must submit a motion to file under seal with the unredacted version of the documents it seeks to file under seal attached to the request. The parties shall exchange proposed written or visual technology tutorial presentations prior to their submission to the Court. If the parties agree on a final tutorial presentation, it shall be submitted to the Court at the Court's request. If the parties cannot agree on a joint tutorial presentation, each side shall submit their respective presentations to the Court and serve on all parties at least seven days prior to the date set by the Court for submission to the Court.
9. The parties shall adhere to the following schedule:

October 26, 2021	Parties to Exchange Initial Disclosures (Fed. R. Civ. P. 26(a)(1))
October 27, 2021	Proposed Protective Order and ESI Order, If Applicable (Fed. R. Civ. P. 16(b))
November 24, 2021	Plaintiffs' Disclosure of Asserted Claims, Preliminary Infringement Contentions, and Document Production Accompanying Disclosure (Patent L.R. 3-1, 3-2)
January 10, 2022	Defendant's Disclosure of Preliminary Invalidity Contentions and Document Production Accompanying Preliminary Invalidity Contentions (Patent L.R. 3-3, 3-4)
January 17, 2022	Amend Pleadings and Join Parties
January 24, 2022	Parties to Exchange Proposed Terms and Claim Elements for Construction (Patent L.R. 4-1(a))
January 28, 2022	Parties to Meet and Confer Regarding Proposed Terms and Elements (Patent L.R. 4-1(b))
February 14, 2022	Parties Exchange Preliminary Claim Constructions and Extrinsic Evidence (Patent L.R. 4-2 (a)-(b))
February 18, 2022	Parties to Meet and Confer Regarding Preparation of Joint Claim Construction & Prehearing Statement (Patent L.R. 4-2(c))
February 22, 2022	Submission of Joint Claim Construction and Prehearing Statement & Deadline to Serve Disclosure of Claim Construction Expert Testimony (Patent L.R. 4-3)
March 24, 2022	Completion of Claim Construction Discovery (Patent L.R. 4-4)
April 8, 2022	Plaintiffs' Opening claim Construction (Patent L.R. 4-5(a))
April 22, 2022	Defendant's Responsive Claim Construction Brief (Patent L.R. 4-5(b))

April 29, 2022	Plaintiffs' Optional Reply Claim Construction Brief (Patent L.R. 4-5(c))
May 6, 2022	Parties to Submit Claim Construction Chart (Patent L.R. 4-5(d))
May 17, 2022 at 1:00 p.m.	Claim Construction Hearing (Patent L.R. 4-6)
30 Days After the Court's Claim Construction Ruling	Plaintiff to Amend Infringement Contentions (For Good Cause or Based on Claim Construction Ruling) (Patent L.R. 3-6(a))
50 Days After the Court's Claim Construction Ruling	Defendant to Amend Preliminary Invalidity Contentions (Based on Final Infringement Contentions or Claim Construction Ruling) (Patent L.R. 3-6(b))
60 Days After the Court's Claim Construction Ruling	Defendant to Make Disclosures Relating to Willfulness (Patent L.R. 3-8)
75 Days After the Court's Claim Construction Ruling	Close of Fact Discovery
30 Days After Close of Fact Discovery	Party With the Burden of Proof to Designate Experts and Serve Expert Reports (Fed. R. Civ. P. 26 (a)(2))
30 Days After Opening Expert Reports	Party Without the Burden of Proof to Designate Experts and Serve Responsive Expert Reports
14 days after Responsive Expert Reports	Joint Settlement Status Report
45 days after Responsive Expert Reports	Close of Expert Discovery
February 13, 2023	Dispositive Motions and Objections to Experts, including <i>Daubert</i> Challenges
April 5, 2023	Motions <i>in Limine</i>
April 20, 2023	Joint Pretrial Order; Joint Proposed Jury Instructions; Joint Proposed Verdict Form
May 5, 2023	Pretrial Disclosures (Fed. R. Civ. P. 26(a)(3)(A))
May 19, 2023	Objections to Pretrial Disclosures (Fed. R. Civ. P. 26(a)(3)(B))
May 26, 2023 at 9:00 a.m.	Final Pretrial Conference

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