

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

PROXENSE, LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 6:24-cv-00143

JURY TRIAL REQUESTED

AGREED JOINT MOTION TO AMEND SCHEDULING ORDER

Plaintiff Proxense, LLC (“Proxense”) and Defendant Apple Inc. (“Apple”) hereby move this Court to amend the Scheduling Order to extend the deadline for Apple to file its opening claim construction brief by six weeks from September 24, 2024 to November 5, 2024 and extend all future case deadlines consistent with the six-week extension, including the *Markman* hearing, pretrial conference, and trial dates as set forth in the proposed amended scheduling order attached to this motion.

Good cause exists for the proposed extension because Proxense intends to move to amend its complaint to assert a new patent¹ and Apple has agreed to not oppose that motion to amend contingent on the Court extending the current scheduling deadlines. The extension will minimize the prejudice of asserting a new patent against Apple at this stage in the proceedings by allowing for additional time to evaluate claim construction, noninfringement, and invalidity issues for the newly asserted patent. Given the impending claim constructing briefing deadlines,

¹ Specifically, Proxense intends to dismiss, with prejudice, all allegations that Apple infringes U.S. Patent No. 9,049,188 and substitute in allegations that Apple infringes U.S. Patent No. 9,679,289,

this joint request will promote judicial efficiency by requiring only one *Markman* hearing, rather than multiple rounds of claim construction briefing and a second *Markman* hearing. This extension request is not being made to unduly delay the proceedings and reflects a compressed schedule for Apple to investigate and conduct pre-*Markman* activities for the newly asserted patent. Accordingly, the parties respectfully request that the Court enter the proposed First Amended Scheduling Order attached to this motion.

Dated: September 26, 2024

Respectfully submitted,

/s/ Michael Saulnier

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 26, 2024, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(b)(1). Any other counsel of record will be served by a facsimile and/or first-class mail.

/s/Michael Saulnier
Michael Saulnier

**UNITED STATES DISTRICT COURT
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WACO DIVISION**

PROXENSE, LLC,

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Defendant.

Civil Action No. 6:24-cv-00143-ADA

JURY TRIAL REQUESTED

AMENDED SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16, the Court hereby ORDERS that the following schedule will govern deadlines up to and including the trial of this matter.

Current Deadline	New Deadline	Item
	10/15/24	Parties exchange claim terms and proposed claim constructions as to U.S. Patent No. 9,697,289 (“the ’289 Patent”).
	10/18/24	Parties disclose extrinsic evidence as to the ’289 Patent. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness’s expected testimony. ¹ With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
9/17/24	10/22/24	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.

¹ Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by

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