

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MASIMO CORPORATION,
Plaintiff,
v.
SOTERA WIRELESS; HON HAI
PRECISION INDUSTRY CO., LTD.,
Defendants.

Case No.: 19cv1100-BAS (NLS)

**ORDER GRANTING IN PART
DEFENDANTS' EX PARTE
MOTION TO MODIFY CASE
MANAGEMENT ORDER**

[ECF No. 76]

Before the Court is Defendants' *ex parte* motion to modify the case management order. ECF No. 76. Plaintiff filed an opposition and Defendants filed a reply. ECF Nos. 82, 83. After due consideration, the Court **GRANTS IN PART** the motion and extends certain dates as discussed below.

Defendants request that the Court modify the scheduling order, extending most remaining dates including pretrial and trial dates, by several months. ECF No. 76. They argue that the extension would better reflect the realistic schedule for this case to proceed, giving delays due to Covid-19. *Id.* at 3. Defendants argue that a more accurate trial date is an important factor that will be considered by the U.S. Patent and Trademark Office ("PTAB") in deciding whether or not to institute their currently pending *inter partes* review ("IPR") proceedings. *Id.* at 4-6. Plaintiff objects, arguing that the current

1 schedule is sufficient to finish discovery and that the IPR issue should not dictate the
2 schedule in this case. ECF No. 82.

3 The Court agrees that the scheduling order in this matter will not be dictated by the
4 effect it would have on the pending IPR proceedings. However, the case status at this
5 juncture does warrant a small extension. Defendants' motion to stay is currently pending
6 before the Court (ECF No. 48), and the Court also recently vacated the claim construction
7 hearing and all related deadlines, to be reset if necessary after a decision on the motion to
8 stay. ECF No. 81. In order to provide the parties with more time to conduct discovery
9 while these other issues are determined, the Court will grant an approximate two-month
10 extension on remaining dates. The Court cautions that the parties must remain diligent in
11 pursuing discovery even with the extension, particularly as to any issues that will not be
12 affected by claim construction. Any further extensions would require good cause as to
13 why the discovery could not have been completed under the schedule.

14 Accordingly, the motion is **GRANTED IN PART** and the scheduling order is
15 modified as follows:

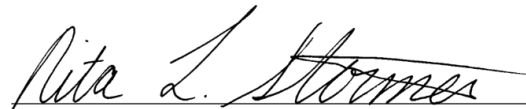
16 Event	Current Deadline	New Deadline
17 Disclosures pursuant to Patent L.R. 3.7	18 Thirty (30) days 19 after filing of the 20 Claim 21 Construction 22 Order	No Change
23 Final Amended Infringement Contentions 24 pursuant to Patent L.R. 3.6(a)(1)	25 Thirty (30) days 26 after filing of the 27 Claim 28 Construction Order	No Change
Final Amended Invalidity Contentions pursuant to Patent L.R. 3.6(b)(2)	Fifty (50) days after filing of the Claim Construction Order	No Change

Event	Current Deadline	New Deadline
Substantial completion of document discovery including electronically stored information (“ESI”) pursuant to Patent L.R. 2.1(a)(1)	October 16, 2020	December 11, 2020
Fact discovery deadline	December 17, 2020	February 12, 2021
Expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2)	January 19, 2021	March 12, 2021
Rebuttal expert disclosures pursuant to Fed. R. Civ. P. 26(a)(2)(D)(ii)	February 16, 2021	April 9, 2021
Expert discovery deadline	March 9, 2021	May 7, 2021
Dispositive motion filing deadline, including <i>Daubert</i> (unless no motions for summary judgment will be filed)	April 6, 2021	June 11, 2021
Confidential settlement briefs	June 16, 2021	July 28, 2021
Mandatory Settlement Conference	June 23, 2021 at 9:30 a.m.	August 4, 2021 at 9:30 a.m.
Pretrial Disclosures pursuant to Fed. R. Civ. P. 26(a)(3)	May 24, 2021	August 28, 2021
Meet and confer regarding Pretrial order pursuant to Local Civil Rule 16.1(f)(4) and (f)(6)(c)	June 14, 2021	September 7, 2021
Plaintiff’s counsel provides opposing counsel with proposed pretrial order	June 28, 2021	September 13, 2021
Pretrial order served and lodged with chambers	July 12, 2021	September 20, 2021
Pretrial Conference	July 26, 2021 at 11:00 a.m.	October 4, 2021 at 11:00 a.m.
Motions <i>in limine</i> deadline	August 9, 2021	October 18, 2021
Responses to motions <i>in limine</i> deadline	August 23, 2021	November 1, 2021
Deadline for (1) joint proposed jury instructions; (2) proposed verdict form; (3) <i>voir dire</i> questions; and (4) statement of the case	August 23, 2021	November 1, 2021
Exchange final exhibit and witness lists	September 14, 2021	November 23, 2021
Motions <i>in limine</i> hearing	September 13, 2021 at 10:30 a.m.	November 22, 2021 at 10:30 a.m.

Event	Current Deadline	New Deadline
Trial	September 21, 2021 at 9:00 a.m.	November 30, 2021 at 9:00 a.m.

IT IS SO ORDERED.

Dated: October 6, 2020



Hon. Nita L. Stormes
United States Magistrate Judge