

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

IMAGE PROCESSING TECHNOLOGIES,  
LLC,

*Plaintiff,*

v.

SAMSUNG ELECTRONICS CO., LTD.;  
SAMSUNG ELECTRONICS AMERICA, INC.

*Defendants.*

Case No. 2:20-CV-00050-JRG-RSP

**JURY TRIAL DEMANDED**

**JOINT MOTION TO AMEND THE DOCKET CONTROL ORDER AND UNOPPOSED  
MOTION FOR CONTINUANCE OF TRIAL DATE**

The parties hereby jointly submit this Joint Motion to Amend the Docket Control Order of March 2, 2020 (Dkt. No. 3), pursuant to the Court's March 12, 2020 Order (Dkt. No. 44), the Notice of Electronic Filing docketing the Notice of Pretrial Conference on March 23, 2020, and in light of other joint communications with the Court. In addition, Plaintiff submits this Unopposed Motion for Continuance of Trial Date, arising from Plaintiff's trial counsel's conflict with another trial previously set for June 1, 2020.

**I. Unopposed Motion to Continue Trial Date**

Plaintiff Image Processing seeks a one-month continuance of the trial date to July 1, 2020, or the first available date thereafter on the Court's trial calendar, as a result of a conflict with the trial date in another case. Plaintiff's trial counsel for this case are also the trial counsel for the plaintiff in the case entitled *Lambeth Magnetic Structures, LLC v. Seagate Technology (US)*

*Holdings, Inc., et al.*, 2:16-cv-00538-CB (W.D. Pa.). The trial date in that case is June 1, 2020, the same as the trial date in this case. The *Lambeth* court set the trial date there in an order dated September 13, 2019, to resolve the defendant's motion to extend the trial date. (*Id.* Dkt. No. 231). In the order, the court stated: "The court does not anticipate granting any other extensions." *Id.*

Given identical trial dates in both venues, Plaintiff requests that the Court here continue the trial date herein to follow the *Lambeth* trial, and set the date for July 1, 2020, or as soon thereafter as may be convenient for the Court. Defendant Samsung does not oppose this request. The parties agree that a trial date earlier than June 1 is not feasible in this case, for many of the reasons set forth in the Court's Order dated March 12, 2020 (Dkt. No. 44), and because of the likely conflict with pretrial activities in the *Lambeth* case.

Below, the parties present a proposed amended Docket Control Order setting forth agreed dates for all pretrial activities, and which would apply regardless of whether the trial date is June 1 or July 1.

## **II. Joint Motion to Amend the Docket Control Order**

The parties having met and conferred, the parties jointly propose the amended dates set forth in the attached [Proposed] Amended Docket Control Order for pretrial filings and proceedings, subject to the Court's approval.

Dated: March 23, 2020

Respectfully Submitted,

/s/ Michael Zachary

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*Attorneys for Defendants Samsung Electronics  
Co., Ltd. and Samsung Electronics America, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23rd day of March 2020, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Michael Zachary  
Michael Zachary

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

IMAGE PROCESSING TECHNOLOGIES,  
LLC,

*Plaintiff,*

v.

SAMSUNG ELECTRONICS CO., LTD.;  
SAMSUNG ELECTRONICS AMERICA, INC.

*Defendants.*

Case No. 2:16-CV-0505-JRG- RSP

**JURY TRIAL DEMANDED**

**[PROPOSED] AMENDED DOCKET CONTROL ORDER**

The Court hereby modifies its Docket Control Order of March 3, 2020 (D.I. 3) as

follows:

Event	Current Schedule	Trial for June 1	Proposal for July 1 Trial Date or Later
*Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap	June 1, 2020	June 1, 2020	July 1 or first available date thereafter
*Pre-Trial Conference – 9:00 a.m. in Marshall, Texas before Judge Roy S. Payne	May 7, 2020, 9:00 a.m.		

Event	Current Schedule	Trial for June 1	Proposal for July 1 Trial Date or Later
<p>*Notify Court of Agreements Reached During Meet and Confer</p> <p>The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i>. The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.</p>	May 4, 2020		
<p>*If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date.<sup>1</sup></p>	March 16, 2020	May 1, 2020	
<p>Defendants' Supplemental Damages Report</p>	March 27, 2020	April 29, 2020	
<p>Oppositions to Motions <i>in limine</i></p>	March 24, 2020	April 21, 2020	
<p>Plaintiff's supplemental damages report shall be served<sup>2</sup></p>	March 20, 2020	April 15, 2020	
<p>File Motions <i>in Limine</i></p> <p>The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p>	March 17, 2020	April 10, 2020	

<sup>1</sup> The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

<sup>2</sup> The parties may currently supplement their damages expert reports to adjust mathematic calculations of damages by removing from damages calculations the sales of products not accused of infringing claim 1 of the '293 patent and to account for additional sales of the already accused products made after the date of the data used in the original expert reports. In view of rulings by the Court and the severance of the case, the accused sales have been narrowed, and the parties have come to realize that as a consequence, the hypothetical reasonable royalty negotiation date for purposes of establishing alleged damages is now different than as set forth in the parties' damages expert reports. The parties are discussing the potential impact on their respective experts' opinions, and whether supplemental reports or other steps are appropriate.

Event	Current Schedule	Trial for June 1	Proposal for July 1 Trial Date or Later
Supplemental Oppositions re Motions Re-Filed on March 10	March 17, 2020	April 10, 2020	
*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions in Limine, Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations	March 17, 2020	April 10, 2020	
Defendants shall provide to Plaintiff supplemental sales data for as recent as reasonably available	March 13, 2020	April 1, 2020	
Defendants shall provide Plaintiff their responsive draft of Pre-Trial Order, as well as any updated objections.	March 13, 2020	April 1, 2020	
*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.	March 13, 2020	March 13, 2020	

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.



## ADDITIONAL REQUIREMENTS

**Summary Judgment Motions, Motions to Strike Expert Testimony, and Daubert Motions:** For each motion, the moving party shall provide the Court with two (2) hard copies of the completed briefing (opening motion, response, reply, and if applicable, sur-reply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. These copies shall be delivered to the Court within three (3) business days after briefing has completed. For expert-related motions, complete digital copies of the relevant expert report(s) and accompanying exhibits shall be submitted on a single flash drive to the Court. Complete digital copies of the expert report(s) shall be delivered to the Court no later than the dispositive motion deadline.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**Amendments to the Docket Control Order (“DCO”):** Any motion to alter any date on the DCO shall take the form of a motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

**Proposed DCO:** The Parties’ Proposed DCO should also follow the format described above under “Amendments to the Docket Control Order (‘DCO’).”

**Joint Pretrial Order:** In the contentions of the Parties included in the Joint Pretrial Order, the Plaintiff shall specify all allegedly infringed claims that will be asserted at trial. The Plaintiff shall also specify the nature of each theory of infringement, including under which subsections of 35 U.S.C. § 271 it alleges infringement, and whether the Plaintiff alleges divided infringement or infringement under the doctrine of equivalents. Each Defendant shall indicate the nature of each theory of invalidity, including invalidity for anticipation, obviousness, subject-matter eligibility, written description, enablement, or any other basis for invalidity. The Defendant shall also specify each prior art reference or combination of references upon which the Defendant shall rely at trial, with respect to each theory of invalidity. The contentions of the Parties may not be amended, supplemented, or dropped without leave of the Court based upon a showing of good cause.