

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KNAUF INSULATION, LLC,)
KNAUF INSULATION GmbH,)
KNAUF INSULATION SPRL,)
)
Plaintiffs,)
)
v.) No. 1:15-cv-00111-TWP-MJD
)
JOHNS MANVILLE CORPORATION,)
JOHNS MANVILLE, INC.,)
)
Defendants.)

ORDER

This matter comes before the Court on the parties' Joint Stipulation Regarding Stay in Light of Coronavirus Pandemic.¹ [Dkt. 627.] The parties' motion requests the Court to enter a 30-day stay in light of the coronavirus pandemic. [Id.] That motion is hereby **DENIED**. However, the Court, *sua sponte*, hereby further amends the Case Management Order as amended [Dkts. 131, 167, 338, 458, 532, & 578] as follows:

II. Discovery and Related Deadlines

A. Fact liability discovery must be completed by **June 26, 2020**. Expert liability discovery must be completed by **September 25, 2020**.

C. The party with the burden of proof as to any liability issue must disclose the name, address, and vita of any expert witness on liability, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **July 10, 2020**. The responding party must disclose the name, address, and vita of any expert witness, and must serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **August 10, 2020**.

D. Absent leave of court, and for good cause shown, all issues raised on summary judgment under Fed. R. Civ. P. 56 must be raised by a party in a single motion.

¹ The Court reminds the parties that it acts on **motions**, not stipulated entries; in the future, the parties should request any relief in the context of a motion. The Court will treat the instant filing as a motion to stay.

Issues of claims construction, infringement/non-infringement, and invalidity must be briefed at this time. Any motion to limit or preclude evidence (including expert testimony) in connection with dispositive motions must also be presented at this time. The parties will proceed under a four-brief schedule. Plaintiffs must file any dispositive motion on or before **October 23, 2020**, along with a brief that does not exceed sixty (60) pages; Defendants must file any dispositive motion on or before **November 20, 2020**, along with a consolidated brief in support/brief in opposition to the Plaintiffs' motion, which brief shall not exceed sixty (60) pages; Plaintiffs must file a consolidated brief in opposition/reply in support on or before **December 18, 2020**, which brief shall not exceed sixty (60) pages; and Defendants may file a reply in support of their own motion on or before **January 6, 2021**, which brief shall not exceed thirty (30) pages. If Plaintiffs do not file a dispositive motion, any dispositive motion by Defendants is due on or before **November 6, 2020** and briefing will proceed according to Local Rule 56-1. If Plaintiffs file a dispositive motion and Defendants do not file a cross-motion, briefing on the Plaintiffs' motion will proceed according to Local Rule 56-1.

E. The plaintiff must disclose the name, address, and vita of any expert witness on damages, and shall serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **November 13, 2020**. The responding party must disclose the name, address, and vita of any expert witness on damages, and must serve the report required by Fed. R. Civ. P. 26(a)(2) on or before **December 14, 2020**.

F. Damages discovery—both fact and expert—must be completed by **February 5, 2021**.

I. The Court will schedule a Summary Judgment/Claim Construction Hearing in **February, 2021**. The Court will set aside **five hours** for the hearing.

III. Other Filings and Deadlines

D. Claim Construction Deadlines (the deadlines in this section encompass only the claims identified in Plaintiffs' Final Election of Asserted Claims)

3. Not later than **July 31, 2020**, each party shall serve on each other party a list of claim terms which that party contends should be construed by the Court, and identify any claim term which that party contends should be governed by 35 U.S.C. § 112(f).

4. Not later than **August 14, 2020**, the parties shall simultaneously exchange proposed constructions of each term identified by either party for claim construction. Each such "Preliminary Claim Construction" shall also, for each term which any party contends is governed by 35 U.S.C. § 112(f), identify the structure(s), act(s), or material(s) corresponding to that term's function. At the same time the parties exchange their respective "Preliminary Claim Constructions," each

party shall also identify all references from the specification or prosecution history that support its proposed construction and designate any supporting extrinsic evidence including, without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses (including a description of the substance of that witness' proposed testimony that includes a listing of any opinions to be rendered in connection with claim construction).

5. Not later than **October 22, 2020**, the parties shall complete and file a Joint Claim Construction and Prehearing Statement, which shall contain the following information: (a) the construction of those terms on which the parties agree; (b) each party's proposed construction of each disputed term, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction or to oppose any other party's proposed construction; (c) the anticipated length of time necessary for the Claim Construction Hearing; (d) whether any party proposes to call one or more witnesses at the Claim Construction Hearing, the identity of each such witness, and for each witness, a summary of his or her testimony including, for any expert, each opinion to be offered related to claim construction.

6. Not later than **September 24, 2020**, the parties shall complete all discovery relating to claim construction, including any depositions with respect to claim construction of any witnesses, including experts, identified in the Preliminary Claim Construction statement or Joint Claim Construction and Prehearing Statement.

All other requirements of the Case Management Order as amended [Dkts. 131, 167, 338, 458, 532, & 578] remain in effect.

SO ORDERED.

Dated: 24 MAR 2020



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

Distribution:

Service will be made electronically
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