

APPENDIX A

**UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF ILLINOIS**

<Name(s) of plaintiff(s)>,)
)
Plaintiff(s))
)
)
)
<Name(s) of defendant(s)>,) Civil Action No. <Number>
)
)
Defendant(s))
)

REPORT OF THE PARTIES' PLANNING MEETING

1. The following persons participated in a Rule 26(f) conference on <Date> by <State the method of conferring>:

<Name>, representing the <plaintiff>
<Name>, representing the <defendant>
2. Initial Disclosures. The parties [have completed] [will complete by <Date>] the initial disclosures required by Rule 26(a)(1).
3. Disclosures and Discovery Pursuant to Local Patent Rules. The parties acknowledge that the requirements of the Local Patent Rules apply to this case.
4. Additional Discovery Plan. The parties propose the following in addition to the discovery plan and schedules addressed in the Local Patent Rules:
 - (a) <Maximum number of interrogatories by each party to another party, along with the dates the answers are due.>
 - (b) <Maximum number of requests for admission, along with the dates responses are due.>
 - (c) <Maximum number of factual depositions by each party.>
 - (d) <Limits on the length of depositions, in hours.>
 - (e) Discovery is permitted with respect to claims of willful infringement and defenses of patent invalidity or unenforceability not pleaded by a party, where the evidence needed to support these claims or defenses is in whole or in part in the hands of another party.

5. Alternative Discovery Plan. The parties propose a discovery plan that differs from that provided in the Local Patent Rules, for the reasons described with particularity in Exhibit 1 to this Report:

<Use separate paragraphs or subparagraphs if the parties disagree.>

6. Other Dates:

- (a) <Dates for supplementations under Rule 26(e).>
- (b) <A date if the parties ask to meet with the court before a scheduling order.>
- (c) <Requested dates for pretrial conferences.>
- (d) <Final dates for the plaintiff to amend pleadings or to join parties.>
- (e) <Final dates for the defendant to amend pleadings or to join parties.>
- (f) <Final dates for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists.>
- (g) <Final dates to file objections under Rule 26(a)(3).>

7. Other Items:

- (a) <State the prospects for settlement.>
- (b) <Identify any alternative dispute resolution procedure that may enhance settlement prospects.>
- (c) Communications between a party's attorney and a testifying expert relating to the issues on which he/she opines, or to the basis or grounds in support of or countering the opinion, are subject to discovery by the opposing party only to the extent provided in Rule 26(b)(4)(B) and (C).
- (d) In responding to discovery requests, each party shall construe broadly terms of art used in the patent field (e.g., "prior art", "best mode", "on sale"), and read them as requesting discovery relating to the issue as opposed to a particular definition of the term used. Compliance with this provision is not satisfied by the respondent including a specific definition of the term in its response, and limiting the response to that definition.
- (e) The parties [agree/do not agree] the video ""The Patent Process: An Overview for Jurors" or any subsequent version of same distributed by the Federal Judicial Center, should be shown to the jurors in connection with its preliminary jury instructions.
- (f) The parties [agree/do not agree] that the provisions of Sections 3A, B and C of the America Invents Act concerning the revisions to 35 U.S.C. §§102, 103 apply to all patents-in-suit in this case. In the event of disagreement, note the potential contention here:
- (g) Per Local Patent Rule 3.5(b), advise with respect to each patent in suit (1) whether the patent is eligible to be challenged at the USPTO by each defendant, (2) what form such a challenge may take (inter parties review, post grant review, covered business method review, ex parte

reexamination, etc.), (3) the earliest and latest date such a challenge is permitted to be made for each defendant, (4) whether the patents in suit have been the subject of prior USPTO reviews and, if so, the status of the same, and (5) any other prior litigation history of the patents in suit and the status of the same.

- (h) Each party that has a drug or biologic application pending with the Food and Drug Administration (“FDA”) that is the basis of the pending case, shall provide a copy of all correspondence between itself and the FDA pertaining to the application to each party asserting infringement, or set forth the basis of any claim that any such correspondence is not discoverable, no later than fourteen (14) days after the date it sends same to the FDA or receives same from the FDA.
- (i) <Other matters.>

Date: <Date>

<Signature of the attorney or unrepresented party>

<Printed name>
<Address>
<E-mail address>
<Telephone number>

Date: <Date>

<Signature of the attorney or unrepresented party>

<Printed name>
<Address>
<E-mail address>
<Telephone number>