

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 10-cv-02868-MSK-KMT

L-3 COMMUNICATIONS CORPORATION, and
L-3 SERVICES, INC.,

Plaintiffs,

v.

JAXON ENGINEERING & MAINTENANCE, INC.,
JONI ANN WHITE,
RANDALL K. WHITE,
SCOTT WHITE,
SUSAN RETTIG,
CHARLES RETTIG,
JAMES YOUNGMAN,
JERRY LUBELL,
KELLY RICE,
JOHN MCCLURE, and
JOHN DOES 1-25, said names being fictitious as such names are unknown at this time,

Defendants.

ORDER

This matter is before the court on the parties' "Joint Emergency Motion to Amend Scheduling Order." (Doc. No. 354, August, 15, 2012.) In their Motion, the parties seek to extend all current Scheduling Order deadlines, including the dispositive motions deadline, by eight weeks.

Fed. R. Civ. P. 16(b) provides that a scheduling order “may be modified only for good cause and with the judge’s consent. Fed. R. Civ. P. 16(b)(4). In addition, District Judge Marcia S. Krieger’s Trial Preparation Order entered in this case on March 4, 2011 provides that “any request to extend the dispositive motions deadline beyond the deadline originally set in the initial Scheduling Order must show exceptional circumstances warranting the extension.” (Trial Prep. Order, Doc. No. 44 at 2.)

The Scheduling Order originally set the dispositive motions deadline for June 11, 2012. (*See* Scheduling Order, Doc. No. 43, filed Mar. 3, 2011.) Thus, if the court were to grant the parties’ Motion and extend the dispositive motions deadline to June 28, 2012, the dispositive motions deadline will have been extended cumulatively by over a year.

Nevertheless, the court finds that exceptional circumstances presented in this case justified the parties’ requested extension of the dispositive motions deadline. The sensitive nature of this case has caused extraordinary complications in discovery. First, a great deal of discovery has required pre-approval by either federal agencies, third-party government contractors, or both. Indeed, three days prior to the original dispositive motions deadline, a federal agency and its government contractor were still in the process of approving Defendants’ document productions. Second, and relatedly, this case has involved the disclosure of confidential and highly confidential documents. As a result, discovery in this case has been exceedingly contentious; indeed, the court has now held at least five motions hearings related to discovery issues—including a multi-day hearing held on July 10-11, 2012.

The parties now indicate that they are finally resolving the last remaining issues relating to their respective document productions. As such, they seek a relatively brief eight-week extension of the Scheduling Order deadlines to ensure that their document productions are largely complete prior to conducting a number of currently-scheduled depositions. The court finds this to be a wise approach to remaining discovery as it will streamline the deposition process and avoid any need to reopen currently-scheduled depositions based on subsequent document productions.

Accordingly, the court finds good cause to support the extension of the Scheduling Order deadlines generally, and exceptional circumstances to support an extension of the dispositive motions deadline specifically. Therefore, it is

ORDERED that the “Joint Emergency Motion to Amend Scheduling Order” (Doc. No. 354) is GRANTED. The Scheduling Order deadlines are extended as follows:

Fact Discovery Cut-off:	November 30, 2012
Expert Discovery Cut-off:	February 20, 2013
Dispositive Motions Deadline:	June 28, 2013
Disclosure of Affirmative Experts:	December 14, 2012
Disclosure of Rebuttal Experts:	January 16, 2013
Exchange (but do not file) claim terms to be construed and preliminary claims constructions:	December 14, 2012
Meet and confer over claim terms and preliminary claim constructions:	December 19-21, 2012
File claims needing construction and the opposing construction of these claims, as limited by the Court:	January 11, 2013

Parties exchange (but do not file)
Opening Claim Construction Briefs
and supporting evidence:

February 6, 2013

Parties exchange (but do not file)
Responsive Claim Construction Briefs
with supporting evidence:

February 22, 2013

Parties FILE opening Claim Construction
Briefs, Responsive Claim Construction
Briefs and supporting evidence compiled
in a single joint appendix with citations
in Parties' briefs reflecting citation to
documents in joint appendix:

March 27, 2013

Dated this 16th day of August, 2012.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge