

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

HOLLISTER INCORPORATED,
an Illinois corporation,

Plaintiff,

vs.

Case No. 3:13-cv-132-J-12TEM

ZASSI HOLDINGS, INC. f/k/a Zassi
Medical Evolutions, Inc., a Florida
corporation, and PETER VON DYCK,

Defendants.

ORDER

This case is before the Court on Defendants' Motion to Bifurcate Liability Issues from Patent Infringement Measure of Damages for Trial Purposes (Motion to Bifurcate, Doc. 18), and Plaintiff's memorandum in opposition (Doc. 22). On July 29, 2013, the Court conducted a hearing on the motion and a preliminary pretrial conference. For the reasons stated at the hearing, the Court will grant the Motion to Bifurcate so that discovery and trial on liability issues may be completed before the Court sets a schedule for discovery and trial on patent infringement/damages issues.

Pursuant to Rule 42(b), Federal Rules of Civil Procedure, "[f]or convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of

one or more separate issues....” The liability issues in this case require Plaintiff to establish breach of contract (Complaint, Doc. 1, Count I) and/or fraudulent inducement (Complaint, Doc. 1, Count II) related to its purchase of technology and intellectual property rights from Defendants. The issue of Plaintiff’s damages is much more distinct from the liability issues than in the usual case, because Plaintiff’s proof of damages will involve complex proof of patent infringement and the amount of any resultant patent damages. As a result, the Court finds that bifurcation of the case for purposes of discovery and trial is warranted under Rule 42(b).

Accordingly, it is

ORDERED:

1. Defendants’ Motion to Bifurcate Liability Issues from Patent Infringement Measure of Damages for Trial Purposes (Doc. 18) is **GRANTED**.
2. The discovery deadline for the liability issues is **December 6, 2013**.
3. This case will be set for trial before the Honorable Paul A. Magnuson, Senior Judge of the District of Minnesota, sitting by designation in the Middle District of Florida. Judge Magnuson’s trial calendar will begin mid-January, 2014, and he will send out a trial calendar sometime after October, 1, 2013. The pretrial conference likely will be in December, 2013, at a time and date to be set by Judge Magnuson.

4. Mediation is with Jay M. Cohen, Esq., to be completed by **November 29, 2013.**

DONE AND ORDERED in Jacksonville, Florida, this 6th day of August, 2013.


TIMOTHY J. CORRIGAN
United States District Judge

Copies to:

Hon. Paul. A. Magnuson
Senior U.S. District Judge
District of Minnesota

Counsel of Record

Jay M. Cohen, Esq.