

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:19-CV-240-FL**

HENSLER SURGICAL PRODUCTS, LLC,

Plaintiff,

vs.

TOBRA MEDICAL, INC.,

Defendant.

Case No. 7:19-cv-00240-FL

ORDER

Before the Court is Plaintiff Hensler Surgical Products, LLC (“Hensler”) Motion to Lift Stay. On June 10, 2020, this Court stayed the above-captioned action pending the resolution of the USPTO’s reexamination on US Patent No. 10,493,183 (the “’183 Patent”), the only patent-at-issue. Having reviewed the Certificate of Reexamination filed by Plaintiff with its Motion, the Court finds that the reexamination proceeding has concluded and the validity of the patent-at-issue confirmed by the USPTO. Accordingly, the Court finds good cause exists to GRANT Plaintiff’s Motion and ORDERS as follows:

1. Plaintiff’s Motion to Lift Stay (Dkt. No. 39) is GRANTED.
2. The Court’s Order entered June 10, 2020 (Dkt. No. 33) is hereby VACATED.
3. The Court resets the case schedule as outlined in the below chart:

| <u>Event</u> | <u>Proposed Date</u> |
|---|--------------------------|
| Exchange of Initial Disclosures and accompanying documents pursuant to Fed. R. Civ. P. 26(a)(1) | N/A |
| Opening of fact discovery | N/A |

| <u>Event</u> | <u>Proposed Date</u> |
|---|---|
| Plaintiff's Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions (LPR 303.1) | June 2, 2021 |
| Document production accompanying Plaintiff's Disclosure of Asserted Claims and Preliminary Infringement Contentions (LPR 303.2) | June 2, 2021 |
| Defendant's Disclosure of Preliminary Invalidity Contentions (LPR 303.3) | July 19, 2021 |
| Document production accompanying Defendant's Disclosure of Preliminary Invalidity Contentions (LPR 303.4) | July 19, 2021 |
| Motion for Leave to Join Additional Parties | July 19, 2021 |
| Exchange of Proposed Terms and Claim Elements for Construction (LPR 304.1) | August 9, 2021 |
| Exchange of Preliminary Claim Constructions and Extrinsic Evidence, including disclosures concerning percipient or expert witnesses information (LPR 304.2) | August 30, 2021 |
| Joint Claim Construction Statement (LPR 304.3) | September 17, 2021 |
| Claim Construction Discovery completed | October 17, 2021 |
| Opening Claim Construction Briefs | November 1, 2021 |
| Responsive Claim Construction Briefs | November 22, 2021 |
| Joint Report with availability for claim construction hearing | November 22, 2021 |
| Claim Construction Hearing (LPR 304.6) | TBD by Court |
| Deadline for disclosure of advice of counsel (LPR 303.8) | 30 days before close of fact discovery |
| Close of Fact Discovery | 90 days after entry of claim construction order |
| Parties each serve expert witness disclosures on issues on which it bears the burden of proof (LPR 305.1(b)) | 30 days after close of fact discovery |
| Parties each serve expert witness disclosures on issues on which the other party bears the burden of proof (LPR 305.1(c)) | 30 days after service of initial expert reports |
| Parties each serve any rebuttal expert witness disclosures (LPR 305.1(d)) | 21 days after responsive expert reports |

| <u>Event</u> | <u>Proposed Date</u> |
|--|---|
| Close of expert discovery (LPR 305.2) | 60 days after rebuttal expert reports |
| Dispositive and <i>Daubert</i> motions due (LR 7.1(c)) | 30 days after close of expert discovery |

IT IS SO ORDERED.

Dated: 6/4/21



HON. LOUISE W. FLANAGAN
UNITED STATES DISTRICT COURT JUDGE