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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 IRONBURG INVENTIONS LTD.,

C17-1182 TSZ

9 Plaintiff,

ORDER FOR REMOTE / VIRTUAL
CIVIL JURY TRIAL

10 v.

11 VALVE CORPORATION,

12 Defendant.
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14 The Court ORDERS that the jury trial scheduled to commence on January 25,
15 2021, at 9:00 a.m., be conducted using the following procedures and protocols.

16 A. **Remote / Virtual Trial Format**

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- 18 1. The entire trial, with the possible exception of jury deliberations, will take
19 place using the ZoomGov.com platform. The parties, counsel, witnesses,
20 jurors, and court staff will not be physically present in the courtroom.
 - 21 2. The public will have telephonic access via a number published on the
22 Court's trial calendar. Members of the public shall not record any portion
23 of the proceedings in any manner.
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1 **B. Preparation**

- 2 1. Counsel shall familiarize themselves with the ZoomGov.com and Box.com
3 platforms by reviewing the King County Superior Court CLE program on
4 conducting remote trials (modified for federal court) and tutorials located at
5 <https://www.wawd.uscourts.gov/attorneys/remotehearings>.
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7 2. Counsel shall ensure that they and each of their witnesses have the
8 hardware, software, data bandwidth, and Internet access required to
9 participate remotely. The minimum system requirements are posted at
10 <https://www.wawd.uscourts.gov/attorneys/remotehearings>.
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12 3. Counsel shall also ensure that they have one or more alternative means of
13 communicating with their clients and witnesses, as well as with the Court,
14 outside the ZoomGov.com platform (*e.g.*, via cellular phone or email).
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16 4. Counsel shall consider establishing a high-speed Internet connection (a
17 hard-wired connection is generally preferable to a wireless Internet
18 connection), and shall take steps to limit Internet usage by others during the
19 proceedings if such usage might impact a participant's connection speed.

18 **C. Recording**

- 19 1. The Court will provide a court reporter for the trial. No portion of the trial
20 shall be recorded or broadcast, in whole or in part, in any fashion by any
21 participant (attorney, party, witness, or juror) or public observer.
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23 2. The prohibition on recording includes any audio or video recording,
24 photographs, and/or screenshots. The parties and counsel shall ensure that

1 each trial participant for which they are responsible acknowledges and
2 agrees to the prohibition on recording.

3 **D. Witnesses and Participants**

4 1. Counsel shall provide, via email to the Court's law clerk, the following
5 information for each party, attorney, paralegal, legal assistant, trial or
6 technical consultant, and witness who will participate remotely:

- 7 • Name and Zoom identity
- 8 • Email address
- 9 • Phone number
- 10 • Participant status (*e.g.*, party, attorney, witness, etc.)

11 2. Prior to trial, the Court's law clerk will supply to counsel the links for the
12 ZoomGov.com sessions. Counsel shall forward the links to other
13 participants, including witnesses, as appropriate.

14 3. After using the link to access the ZoomGov.com session, participants will
15 enter a virtual waiting room. They will be admitted from the virtual
16 waiting room into the virtual courtroom when appropriate. Counsel are
17 responsible for notifying witnesses when and how they are expected to
18 report to the virtual waiting room.

19 4. Participants who will not be examining witnesses, testifying, or otherwise
20 presenting matters during the proceedings (*e.g.*, paralegals, legal assistants,
21 and trial or technical consultants) shall use the ZoomGov.com platform
22 controls to mute their microphones and deactivate their cameras.
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1 **E. Exhibits**

- 2 1. Exhibits shall be numbered in advance of trial in accordance with the
3 protocol set forth in the Minute Order entered January 8, 2018, docket
4 no. 153.
- 5 2. All exhibits shall be uploaded by counsel to the “Box.com” platform via
6 one or more links that the Court’s law clerk will provide via email prior to
7 the trial date.
- 8 3. Exhibits as to which admissibility has been stipulated shall be uploaded to
9 the Box.com folder labeled “Admitted Exhibits.” Exhibits as to which
10 admissibility is disputed shall be uploaded to the respective Box.com
11 folders labeled “Plaintiff’s Proposed Exhibits” and “Defendant’s Proposed
12 Exhibits.” At the end of each trial day, the Court’s law clerk and counsel
13 will confer, and the Court’s law clerk will transfer into the “Admitted
14 Exhibits” folder any exhibits in the folders for “Plaintiff’s Proposed
15 Exhibits” and “Defendant’s Proposed Exhibits” that have been offered and
16 admitted into evidence.
- 17 4. After the close of evidence and before the jury begins deliberating, the
18 Court’s law clerk and counsel will confer to confirm that the “Admitted
19 Exhibits” folder accurately reflects the evidence admitted during the course
20 of trial. During their deliberations, the jurors will be provided access to the
21 Box.com folder for “Admitted Exhibits.”
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1 5. Hard copies of all exhibits shall be delivered to the Court’s courtroom
2 deputy clerk, Gail Glass, at 700 Stewart Street, Seattle, WA 98101, at least
3 three (3) judicial days before the first day of trial. These exhibits shall be
4 bound in one or more three-ring notebooks and appropriately tabbed by
5 exhibit number. While testifying, each witness shall have available a copy
6 of any exhibit that he or she will be expected to use or examine during the
7 trial. The witness shall not access any copy of an exhibit unless and until
8 instructed to do so by the examining counsel. With regard to exhibits as to
9 which admissibility is disputed, the Court will conduct proceedings outside
10 the presence of the jury during which counsel may present arguments and,
11 if necessary, voir dire witnesses, using the screen-sharing function in
12 ZoomGov.com to display the exhibits at issue from the respective Box.com
13 folders. To the extent possible, the Court will rule on the admissibility of
14 exhibits before a witness who is expected to use or examine such exhibits
15 testifies.
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17 6. The parties shall comply with Local Civil Rule 32(e) concerning the use of
18 depositions at trial. Video depositions that are used as substantive evidence
19 shall be broadcast via ZoomGov.com using the screen-sharing function.
20 Counsel may, but are not required to, upload video depositions to their
21 respective Box.com folders, but the recordings will not be transferred to the
22 “Admitted Exhibits” folder. Transcripts of depositions used during the trial
23 for impeachment or as substantive evidence need not be sealed prior to their
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1 use. Counsel may either show the portion of the transcript at issue to the
2 witness using the screen-sharing function in ZoomGov.com or transmit the
3 entire transcript to the witness via mail, email, or otherwise in advance of
4 his or her testimony.

5 7. If a program or platform other than Box.com will be used to publish
6 exhibits to the jury, then counsel shall file, prior to the first day of trial, a
7 certification signed under penalty of perjury indicating that the exhibits to
8 be displayed to the jury using the other program or platform are identical to
9 the exhibits uploaded into the folders on Box.com.

10 8. Both parties shall use the same naming convention for exhibits uploaded to
11 Box.com. The naming convention shall include the exhibit number, as well
12 as a brief description of the exhibit, which shall be sufficiently clear that
13 jurors can understand the nature of the exhibit without having to open the
14 electronic file.
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16 **F. Professionalism During the Trial**

17 **1. Ambient Noise Protocols**

18 a. All participants who are not actively being questioned as a witness,
19 asking questions of a witness, defending a witness, or providing or
20 responding to opening statements, closing arguments, or other
21 arguments, shall use the ZoomGov.com platform controls to mute
22 their microphones. The Court's law clerk, who will "host" the
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1 ZoomGov.com sessions, will mute any participant who fails to
2 follow this protocol.

3 b. Participants using multiple devices in a single workspace to access
4 the trial should avoid audio feedback issues by using the microphone
5 and speakers on only one device at a time, or by using headphones.

6 **2. Courtesy and Decorum:** To the extent possible, remote trial participants
7 should conduct themselves in the same way they would if they were
8 physically present in a courtroom. They should avoid interrupting someone
9 who is speaking, except as necessary to raise an objection. Virtual trial
10 participants should silence electronic devices other than the devices
11 necessary to their remote participation, close unnecessary computer
12 programs or applications, and take steps to remove or minimize anything in
13 their remote workspace that might distract from the integrity of the
14 proceedings. The Court understands that conducting trial virtually, from
15 one's home, for example, presents many challenges. The Court asks all
16 remote participants to do their best to maintain professionalism in order to
17 conduct a fair and efficient trial.

18 **3. Objections:** When an objection is made, the witness shall stop talking
19 until the Court rules on the objection. If the objection requires a discussion
20 outside the presence of the jury, the jurors will be placed in the virtual jury
21 room.
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1 **4. Disconnection:** In the event that the Court, a party, an attorney of record,
2 a witness, a juror, or anyone else necessary to the proceedings becomes
3 disconnected from the remote trial, the trial will stop while the connection
4 is reestablished. If the participant has difficulty reconnecting, he or she
5 should call or text Gail Glass at (206) 290-5147. In advance of calling a
6 witness to the virtual stand, counsel must establish with the witness a
7 protocol for contacting the witness in the event of disconnection and ensure
8 that the alternative means of communication (*e.g.*, a cellular phone) is
9 operational.

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11 **5. Appropriate Dress:** Parties, witnesses, and counsel shall dress in the same
12 manner as they would if they physically appeared in a courtroom.

13 **6. Screen Names:** Remote participants should endeavor to use a screen name
14 in the ZoomGov.com platform that indicates their actual first and last
15 names. As “host,” the Court’s law clerk will rename any participant whose
16 screen name is incomplete, confusing, unprofessional, or otherwise
17 improper.

18 **G. Technology Check and Pretrial Conference**

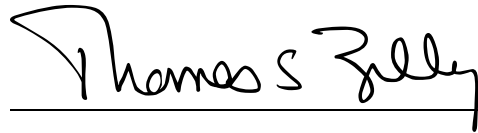
19 All counsel who will actively participate in trial, as well as their assistants, shall
20 attend a technology check session with the Court’s law clerk and courtroom deputy clerk
21 on January 14, 2021, at 10:00 a.m. A Pretrial Conference is SET for January 15, 2021, at
22 10:00 a.m. Both the technology check session and the Pretrial Conference will be
23 conducted via ZoomGov.com. Counsel will be provided links via email. Counsel are
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1 encouraged to review the docket for this matter to ensure that their contact information is
2 listed correctly.

3 **IT IS SO ORDERED.**

4 The Clerk is directed to send copies of this Order to all counsel of record.

5 DATED this 15th day of December, 2020.

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8 Thomas S. Zilly
9 United States District Judge

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