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

8 SWIRLATE IP LLC,

9 Plaintiff,

10 v.

11 ZETRON, INC.,

12 Defendant.

C21-866 TSZ

ORDER REGARDING
INITIAL DISCLOSURES,
JOINT STATUS REPORT,
AND EARLY SETTLEMENT
IN A PATENT CASE

13 **I. INITIAL SCHEDULING DATES**

14 The Court SETS the following dates for initial disclosure and submission of the
15 Joint Status Report and Discovery Plan:

16 Deadline for FRCP 26(f) Conference: August 30, 2021

17 Initial Disclosures Pursuant to FRCP 26 (a)(1): September 13, 2021

18 Combined Joint Status Report and
Discovery Plan as Required by FRCP 26(f),
Local Civil Rule 26(f), and Local Patent Rule 110: September 13, 2021

19 The deadlines above may be extended only by the Court. Any request for an extension
20 should be made telephonically by calling chambers at 206-370-8830. If defendant has
21 appeared, the parties are directed to meet and confer before contacting the Court to
22 request an extension.

1 4. A discovery plan that states, by corresponding paragraph letters (A, B, etc.),
2 the parties' views and proposals on all items in Fed. R. Civ. P. 26(f)(3), which includes
3 the following topics:

- 4 (A) initial disclosures;
- 5 (B) subjects, timing, and potential phasing of discovery;
- 6 (C) electronically stored information;
- 7 (D) privilege issues;
- 8 (E) proposed limitations on discovery; and
- 9 (F) the need for any discovery related orders.

10 5. The parties' views, proposals, and agreements, by corresponding paragraph
11 letters (A, B, etc.), on all items set forth in Local Civil Rule 26(f)(1), which includes the
12 following topics:

- 13 (A) prompt case resolution;
- 14 (B) alternative dispute resolution;
- 15 (C) related cases;
- 16 (D) discovery management;
- 17 (E) anticipated discovery sought;
- 18 (F) phasing of motions;
- 19 (G) preservation of discoverable information;
- 20 (H) privilege issues;
- 21 (I) Model Protocol for Discovery of ESI; and
- 22 (J) alternatives to Model Protocol.

1 6. The parties' views, proposals, and agreements, by corresponding paragraph
2 letters (A, B, etc.), on all additional items set forth in Local Patent Rule 110, which
3 includes the following topics:

- 4 (A) Any proposed modification of the deadlines provided for in the
5 Local Patent Rules, and the effect of any such modification on the
6 date and time of the Claim Construction Hearing, if any;
- 7 (B) Whether confidentiality concerns affect the disclosures contemplated
8 in the Local Patent Rules and, if so, the parties' position on how they
9 should be addressed;
- 10 (C) Whether and/or when a tutorial might be scheduled to assist the
11 Court to understand the underlying technology;
- 12 (D) Whether discovery should be allowed before the disclosures required
13 by Local Patent Rule 120;
- 14 (E) Whether any party plans to bring a motion for preliminary injunction
15 or a dispositive motion before the Claim Construction Hearing and,
16 if so, the nature of such motion;
- 17 (F) The need for and any specific limits on discovery relating to claim
18 construction, including depositions of witnesses, including expert
19 witnesses;
- 20 (G) Whether the Court should appoint an expert to hear and make
21 recommendations on claim construction issues;
- 22
- 23

1 (H) The nature of the Claim Construction Hearing (*e.g.*, an evidentiary
2 hearing);

3 7. The date by which discovery can be completed.

4 8. Whether the case should be bifurcated by trying the liability issues before
5 the damages issues, or bifurcated in any other way.

6 9. Whether the pretrial statements and pretrial order called for by Local Civil
7 Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in whole or in part for the
8 sake of economy.

9 10. Any other suggestions for shortening or simplifying the case.

10 11. The date the case will be ready for trial. The Court expects that most civil
11 cases will be ready for trial within a year after filing the Joint Status Report and
12 Discovery Plan.

13 12. Whether the trial will be jury or non-jury.

14 13. The number of trial days required.

15 14. The names, addresses, and telephone numbers of all trial counsel.

16 15. The dates on which the trial counsel may have complications to be
17 considered in setting a trial date.

18 16. If, on the due date of the Report, all defendants or respondents have not
19 been served, counsel for the plaintiff shall advise the Court when service will be effected
20 and why it was not made earlier, and shall provide a proposed schedule for the required
21 FRCP 26(f) conference and FRCP 26(a) initial disclosures.

1 17. Whether any party wishes a scheduling conference before the Court enters a
2 scheduling order in the case.

3 18. List the date(s) that each and every nongovernmental corporate party filed
4 its disclosure statement pursuant to Fed. R. Civ. P. 7.1 and Local Civil Rule 7.1.

5 If the parties are unable to agree to any part of the Report, they may answer in
6 separate paragraphs. No separate reports are to be filed. If the parties wish to have a
7 status conference with the Court at any time during the pendency of this action, they
8 should notify the Court by telephone at 206-370-8830.

9 **III. PLAINTIFF'S RESPONSIBILITY**

10 This Order is issued at the outset of the case, and a copy is sent by the Clerk to
11 counsel for plaintiff (or plaintiff, if pro se) and any defendants who have appeared.
12 Plaintiff's counsel (or plaintiff, if pro se) is directed to serve copies of this Order on all
13 parties who appear after this Order is filed. Such service shall be accomplished within
14 seven (7) days after each appearance. Plaintiff's counsel (or plaintiff, if pro se) will be
15 responsible for starting the communications needed to comply with this Order.

16 **IV. PROCEDURAL INFORMATION**

17 The Local Rules, Electronic Filing Procedures for Civil and Criminal Cases, court
18 forms, instruction sheets, and General Orders can be found on the Court's website at
19 www.wawd.uscourts.gov.

20 **V. EARLY SETTLEMENT CONSIDERATION 21 AND NOTIFICATION**

22 If the parties reach a settlement in principle, counsel shall immediately notify the
23 Court at 206-370-8830.

