

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE (WILMINGTON)

SONOS, INC.,

Plaintiff, CIVIL No. 24-cv-131

vs.

LINKPLAY TECHNOLOGY, INC.,
et al.,

Defendants.

Transcript of Video Rule 16 Conference on May 16, 2024,
United States District Court of Delaware,
Before Judge J. Nicholas Ranjan, District Judge.

APPEARANCES:

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02:08PM 1 all of you as well.
02:08PM 2 So, a couple of things I wanted to talk about here
02:08PM 3 today separate and apart from the schedule. One thing is just
02:08PM 4 maybe more preliminary, it's a chance to introduce myself.
02:08PM 5 Obviously, I sit in the Western District of Pennsylvania. As
02:08PM 6 I think you probably all know and I suspect in practicing in
02:08PM 7 the District of Delaware, that oftentimes the District of
02:08PM 8 Delaware will appoint judges from outside the district on
02:08PM 9 designation to handle some of -- mostly patent, I believe,
02:08PM 10 patent cases, given the large volume of patent cases filed in
02:08PM 11 the District of Delaware. So I've agreed to do that for, I
02:08PM 12 think, maybe I'm on somewhere between eight to ten patent
02:08PM 13 cases currently. Most of them are in the earlier stages of
02:09PM 14 litigation. But what I've tried to do in all of those cases,
02:09PM 15 and because I'm still tweaking my procedures in how I want to
02:09PM 16 handle the District of Delaware cases, don't hold this against
02:09PM 17 me, but one of my initial thoughts in handling these cases is,
02:09PM 18 one, to adhere to really all of the local rules and practices
02:09PM 19 in the District of Delaware as best as I can.
02:09PM 20 Please note, I'm not, you know, a District of
02:09PM 21 Delaware judge. So even for myself, as I suspect for some of
02:09PM 22 the counsel here that are not from that district, it might
02:09PM 23 be -- you know, I, too, have to look at the rules and the
02:09PM 24 procedures to make sure that I'm fully complying with them.
02:09PM 25 But I think to just provide some consistency to all of the

PROCEEDING

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02:06PM 3 THE DEPUTY CLERK: Folks, good afternoon. The United
02:07PM 4 States District Court for the District of Delaware is now in
02:07PM 5 session, the Honorable J. Nicholas Ranjan sitting by
02:07PM 6 designation. The matter now before the Court is Sonos, Inc.
02:07PM 7 vs. Linkplay Technology, Inc., et al., at Case Number
02:07PM 8 24-cv-131.

02:07PM 9 THE COURT: Good afternoon, everyone. We're here for
02:07PM 10 an initial case management conference in this case. Why don't
02:07PM 11 we start by having counsel enter their appearances? We'll
02:07PM 12 begin with plaintiff.

13 MR. ROVNER: (Microphone muted.)

02:07PM 14 THE COURT: I think, Mr. Rovner --

02:07PM 15 MR. ROVNER: I'm sorry. This is Phil Rovner from
02:07PM 16 Potter, Anderson & Corroon in Wilmington, Delaware,
02:07PM 17 representing Plaintiff Sonos. With me is my co-counsel from
02:07PM 18 the Lee Sullivan firm in Chicago, Mike Boyea and Cole Richter.

02:07PM 19 THE COURT: All right. Good afternoon to all of you.

02:07PM 20 And then for the defendants?

02:07PM 21 MS. KELLER: Good afternoon, Your Honor. Karen
02:07PM 22 Keller from Shaw Keller in Wilmington, Delaware. And with me
02:08PM 23 today from the Bayes firm in Virginia is Mandy Song, Kris
02:08PM 24 Teng, and Gavin Ye.

02:08PM 25 THE COURT: All right. Very good. Good afternoon to

02:09PM 1 practitioners here in the path of the litigation, it makes
02:09PM 2 sense for me to really put my hat on as a District of Delaware
02:09PM 3 judge and really try to abide by all of the practices and
02:10PM 4 procedures out there. To that end, I do rely heavily on the
02:10PM 5 District of Delaware counsel here, you know, Mr. Rovner and
02:10PM 6 Ms. Keller, to really nudge me if you think I am getting off
02:10PM 7 path a little bit because my intent is really to abide by all
02:10PM 8 of your customs and rules and procedures.

02:10PM 9 Another sort of housekeeping note on that front,
02:10PM 10 because I'm not in the District of Delaware, I tend to try to
02:10PM 11 do most of my hearings remotely. I think it makes sense in
02:10PM 12 these particular cases to really do all hearings and status
02:10PM 13 conferences by video and I'll have a court reporter on each of
02:10PM 14 them. And I think for the most part, except for the final
02:10PM 15 pretrial conference, any evidentiary hearings and trial, I
02:10PM 16 think the other conferences will be by video. If it turns out
02:11PM 17 there is a conference or a hearing that anyone believes really
02:11PM 18 ought to be in person, I'd just ask that you confer and then
02:11PM 19 either file a motion or email my courtroom deputy to indicate
02:11PM 20 that there's a preference to appear in person.

02:11PM 21 With respect to a Markman hearing, right now my view
02:11PM 22 is to probably do that in person, but I would confer with
02:11PM 23 counsel as we get closer. I would certainly do it in person
02:11PM 24 if anyone believes that there would be witnesses, experts that
02:11PM 25 would testify there, or if there's an in-person tech tutorial

02:11PM **1** at the hearing, I think it makes sense to do it in person.

02:11PM **2** I just had a Markman hearing the other day that we

02:11PM **3** did in person in the District of Delaware and it was mostly

02:11PM **4** attorney argument. I think it worked well, and I was fine

02:11PM **5** doing it in person, but it also could have been done by video.

02:12PM **6** So for Markman hearings, I'll play those by ear,

02:12PM **7** probably in person. But as we get closer to the date, we can

02:12PM **8** all confer and see what format makes the most sense. And if

02:12PM **9** anything is done in person, it will be done in the District of

02:12PM **10** Delaware as well.

02:12PM **11** And then one other housekeeping issue. As I

02:12PM **12** mentioned, I'll have a court reporter on these conferences. I

02:12PM **13** think it makes sense for a transcript of every conference, no

02:12PM **14** matter how minor it is, to be ordered. And so I'll try to

02:12PM **15** remember to do this after each conference, but if I don't

02:12PM **16** issue an order on it, I would just ask counsel to confer with

02:12PM **17** the court reporter, order a copy of the transcript, with the

02:12PM **18** costs to be split evenly per side.

02:12PM **19** Oh, and then the last, again, housekeeping and more

02:12PM **20** general issue is, no need to send me any physical or courtesy

02:12PM **21** copies of anything. If there's a need to send me anything in

02:12PM **22** this case, I try to be as paperless as possible. You'll have,

02:13PM **23** and I think you probably already have, my courtroom deputy's

02:13PM **24** email address, Mr. Kosloski. Just email him, copying opposing

02:13PM **25** counsel, of course, with anything that you believe I need to

02:13PM **1** see via email, whether it's sometimes a PowerPoint

02:13PM **2** presentation after an argument or, you know, in the scheduling

02:13PM **3** order there are certain things that have to be sent to the

02:13PM **4** Court, you know, just email him those.

02:13PM **5** So that's sort of the first topic I wanted to touch

02:13PM **6** on, just more general practice issues. Any questions or

02:13PM **7** comments or concerns about any of that? I'll pause here.

02:13PM **8** (No response.)

02:13PM **9** THE COURT: Okay. Hearing none, then, why don't we

02:13PM **10** get into maybe the specifics of the case a little bit? So

02:13PM **11** really, as I think you saw from my order, it's helpful for me

02:14PM **12** to maybe get a little bit of an overview of the litigation,

02:14PM **13** including the patents in suit, and maybe we can start there.

02:14PM **14** So I'll turn to plaintiff first. I'm not sure who

02:14PM **15** from the plaintiff team wants to take the lead.

02:14PM **16** MR. BOYEA: Your Honor, Mike Boyea on behalf of

02:14PM **17** Sonos. I'll go ahead and give you a brief overview about

02:14PM **18** Sonos, the accused products, the patents, and then my

02:14PM **19** colleague will take any questions you have, Cole Richter, on

02:14PM **20** damages and the like.

02:14PM **21** THE COURT: Okay. Great.

02:14PM **22** MR. BOYEA: So just to give you a very brief

02:14PM **23** introduction to Sonos, you know, by all accounts, Sonos' story

02:14PM **24** is an American success story. They were founded in 2002 and

02:14PM **25** they had a vision to take what the home audio experience was

02:14PM **1** of the time and bring it into the digital age. And today,

02:15PM **2** Sonos is known by many in the industry to have invented the

02:15PM **3** multi-room audio market that exists today. And so let me give

02:15PM **4** you a little backdrop of the home audio space that existed

02:15PM **5** when Sonos' founders kind of had their vision.

02:15PM **6** So typically what you had in a home was a centralized

02:15PM **7** receiver, or AVR, that would be tucked away in a closet that

02:15PM **8** would have a bunch of audio sources connected to it with wires

02:15PM **9** everywhere and you also would have these speaker wires that

02:15PM **10** would run from that centralized receiver, through holes in the

02:15PM **11** walls throughout the home, back to these passive speakers that

02:15PM **12** would be in the different rooms of the home. Sonos' founders

02:15PM **13** looked at that and said, you know, this isn't the experience

02:15PM **14** we like. We don't think that this is the experience people

02:15PM **15** are going to like in the years to come. We think everything's

02:15PM **16** going to become digital. CDs are going to become the past.

02:16PM **17** Everything's going to come from the Cloud.

02:16PM **18** And so they really put that system and broke it apart

02:16PM **19** and said we need a new paradigm. And what Sonos' founders

02:16PM **20** wanted to do was put an audio system together that existed on

02:16PM **21** a data network where you put a ZonePlayer, that's Sonos' term,

02:16PM **22** in each room. And each ZonePlayer was its own standalone

02:16PM **23** device that had the intelligence to go out to the Internet, to

02:16PM **24** pull out music from different sources, like, the rhapsody of

02:16PM **25** the day, and also to be able to process all of the audio

02:16PM **1** locally and play it out at speakers attached to the

02:16PM **2** ZonePlayer.

02:16PM **3** With these devices being on a data network, that

02:16PM **4** created a whole host of technological issues that Sonos'

02:16PM **5** engineers and developers had to create solutions for from the

02:16PM **6** get-go. And so that really brings in the first four patents

02:17PM **7** that I want to talk to you about today, where the first two of

02:17PM **8** those relate to synchronization generally.

02:17PM **9** And so what that means is Sonos' system, again,

02:17PM **10** it's -- everything's on a data network and you have these

02:17PM **11** individual intelligent computers effectively that are audio

02:17PM **12** devices. They're running on their own clocks. And so those

02:17PM **13** clocks are not always running at the same rate, they don't

02:17PM **14** start at the same time. So they're doing their own thing but

02:17PM **15** one another -- they don't know what the other device's time

02:17PM **16** is.

02:17PM **17** So Mr. Millington was brought in, Nick Millington, in

02:17PM **18** 2003 to figure out how do we get these independently clocking

02:17PM **19** devices to be able to play audio in synchrony with one

02:17PM **20** another? And so you see the '357 patent and the '532 patent

02:17PM **21** are directed to, generally, Mr. Millington's solution for

02:18PM **22** figuring out how ZonePlayers coordinate with one another to

02:18PM **23** play back audio in synchrony. That's really at the core of

02:18PM **24** Sonos' system, synchronization technology.

02:18PM **25** Now, once you have that technology to play music in

02:18PM **1** synchrony with these sets of ZonePlayers, Sonos wanted a user
 02:18PM **2** to have a lot of flexibility with creating different
 02:18PM **3** configurations of these ZonePlayers to say, hey, I've got one
 02:18PM **4** in my dining room, I have one in my kitchen, I have one in my
 02:18PM **5** family room. I want to be able to create different
 02:18PM **6** configurations of two or more of those devices to play audio
 02:18PM **7** in synchrony.
 02:18PM **8** And so, Mr. Millington and Rob Lambourne invented a
 02:18PM **9** controller user interface to create groups of ZonePlayers to
 02:18PM **10** play in synchrony. And then to be able to control the output
 02:18PM **11** volume of those devices in a group as a whole, that feature
 02:19PM **12** became known as the group volume, and also to be able to
 02:19PM **13** control each ZonePlayer within a group independently of the
 02:19PM **14** other. So that is the '014 patent which we sometimes refer to
 02:19PM **15** as the group volume patent.
 02:19PM **16** So under the fourth patent that was really early on
 02:19PM **17** in Sonos' innovations, you have all of these devices that have
 02:19PM **18** to operate on a data network. And of the time 2003-2004,
 02:19PM **19** things like Wi-Fi, like, that was not mainstream. Users
 02:19PM **20** didn't really know how to get devices onto a Wi-Fi network and
 02:19PM **21** the like. And so Sonos had to come up with a simple,
 02:19PM **22** transparent way for a user to get a brand-new ZonePlayer onto
 02:19PM **23** a data network so that that device can operate in the system.
 02:19PM **24** And so again, Mr. Millington and another colleague, Paul
 02:20PM **25** Hainsworth, came together to come up with the '883 patent, and

02:20PM **1** that's an invention on how do you get a ZonePlayer onto the
 02:20PM **2** data network so it can be part of the Sonos audio system. We
 02:20PM **3** sometimes refer to that patent as a setup patent, or the setup
 02:20PM **4** patent.
 02:20PM **5** So those are the first four patents that are asserted
 02:20PM **6** here and those are all from about the 2003-2004 priority time
 02:20PM **7** frame. And, you know, those all are innovations that were
 02:20PM **8** related to Sonos' first products release in 2005. After they
 02:20PM **9** released in 2005, Sonos' first products received praise like
 02:20PM **10** you couldn't imagine. But Sonos didn't stop there. They've
 02:20PM **11** continued to innovate even to this day. And so the final
 02:20PM **12** patent, the '023 patent, is a somewhat more recent innovation
 02:20PM **13** but this is a patent relating to how a ZonePlayer can
 02:21PM **14** intelligently switch between different sources of audio that
 02:21PM **15** it might be playing.
 02:21PM **16** I'm going to pause there, Your Honor, because that is
 02:21PM **17** the end of my introduction to Sonos and the patents in suit,
 02:21PM **18** and I will transition next to the accused products.
 02:21PM **19** THE COURT: All right. Thank you. With respect -- I
 02:21PM **20** suppose with respect to the accused products here, I mean,
 02:21PM **21** Mr. Richter, are you going to handle damages or -- okay.
 02:21PM **22** MR. RICHTER: Oh, absolutely. So at this stage,
 02:21PM **23** Sonos is looking at a couple of different remedies. One,
 02:21PM **24** Sonos is contending that it's entitled to its lost profits
 02:21PM **25** which the parties here, Linkplay and Sonos, are direct

02:21PM **1** competitors. As Mr. Boyea said, the demand for the patented
 02:22PM **2** features are evidence. We haven't heard anything yet about
 02:22PM **3** noninfringing alternatives, and Sonos certainly has the
 02:22PM **4** capacity to meet the demand that the accused products fulfill.
 02:22PM **5** And to the extent that Sonos isn't entitled to lost profits on
 02:22PM **6** any of Linkplay's infringement, then it will proceed on the
 02:22PM **7** reasonable royalty analysis for the remainder of the
 02:22PM **8** infringement.
 02:22PM **9** Under both -- under all three approaches, generally
 02:22PM **10** the market approach, the income approach, and the cost
 02:22PM **11** approach, I can -- I'm happy to run through those. But we
 02:22PM **12** are -- we served some document requests and some information
 02:22PM **13** requests on defendants and are awaiting information on sales
 02:22PM **14** and the like to be able to calculate what we think preliminary
 02:23PM **15** damages are in this case.
 02:23PM **16** But I'm happy to answer any questions. And if not,
 02:23PM **17** Mr. Boyea is happy to run through a brief overview of the
 02:23PM **18** accused products. So whatever Your Honor prefers.
 02:23PM **19** THE COURT: Yeah, I'm fine -- you know, I didn't
 02:23PM **20** anticipate extremely detailed damages. But it's helpful, I
 02:23PM **21** think, to get sort of just a sense as to where the plaintiff
 02:23PM **22** is going in this case. But, yeah, if you can -- no questions
 02:23PM **23** right now.
 02:23PM **24** MR. BOYEA: So, Your Honor, would it be helpful for
 02:23PM **25** me just to do a quick overview of the accused products, and

02:23PM **1** then I can pass to defendants?
 02:23PM **2** THE COURT: Yeah, that would be helpful. Thank you.
 02:23PM **3** MR. BOYEA: Yeah. So there's basically two buckets
 02:23PM **4** of accused products. The first is Linkplay's own branded
 02:23PM **5** products that Linkplay itself sells to end users. And the
 02:23PM **6** current brand is Wiim, W-I-I-M, and that is -- I think there
 02:23PM **7** are five or six, maybe now seven or eight, now that I think
 02:24PM **8** about it, different products, audio products, whether they be
 02:24PM **9** what we call an amplifier, it's a network to amplifier device
 02:24PM **10** that plugs into external speakers that was very similar to
 02:24PM **11** Sonos' very first product, the ZP100. You have the WiiM mini,
 02:24PM **12** which is, like, a little puck that you can connect to some
 02:24PM **13** powered speakers and you can turn that into a network speaker.
 02:24PM **14** And then you've got some other products, but another one is
 02:24PM **15** all-in-one, it's, like, an alarm clock-light speaker called
 02:24PM **16** the Wake Up Light. So that's what the WiiM-branded products
 02:24PM **17** are.
 02:24PM **18** And along with that, WiiM provides an app for
 02:24PM **19** download from, you know, like, the Apple Store that you put on
 02:24PM **20** your phone. You then can control your system, create groups,
 02:24PM **21** control group volume, things like that. So that's the current
 02:25PM **22** branded speaker -- product line, I should say, from Linkplay.
 02:25PM **23** Linkplay also used to sell this product called the
 02:25PM **24** Cobblestone. That was also an audio player, very -- from what
 02:25PM **25** we can tell, from what Sonos can tell it was basically a first

02:25PM 1 version of what is now the WiiM mini, like, this little puck
 02:25PM 2 that connects to powered speakers. So it's a network to audio
 02:25PM 3 streamer as well. So that Cobblestone player had an app as
 02:25PM 4 well that, you know, allowed a user to create groups of these
 02:25PM 5 Cobblestones that was called the Muzo player app, I believe,
 02:25PM 6 is what it was.
 02:25PM 7 So those are the all-in-one products that Linkplay
 02:25PM 8 itself sells.
 02:25PM 9 And then there's another bucket of accused products
 02:25PM 10 that are basically Linkplay technology that third parties use
 02:25PM 11 to create what's called -- what Linkplay calls powered by
 02:25PM 12 Linkplay products. And there's a variety of third parties
 02:26PM 13 that have used that technology to create multi-room products.
 02:26PM 14 One example is a company called Audio Pro. I think they've
 02:26PM 15 got 10 or 15 different products that they sell that have one
 02:26PM 16 of these Linkplay -- some of these Linkplay technologies baked
 02:26PM 17 into it.
 02:26PM 18 This Linkplay technology can be broken into hardware
 02:26PM 19 and software. So Linkplay sells these modules that have, from
 02:26PM 20 what we can tell, synchronization technology built into the
 02:26PM 21 firmware as well as setup technology. So these are these
 02:26PM 22 hardware modules.
 02:26PM 23 And then Linkplay also provides what's called a
 02:26PM 24 companion app. It looks a lot like the WiiM, the WiiM
 02:26PM 25 products controller app, but it can be customized for a third

02:26PM 1 party to have a different look and feel, if you will. But by
 02:27PM 2 all accounts, that companion app, it allows grouping and
 02:27PM 3 things like group volume control that Sonos' patents cover.
 02:27PM 4 So to summarize, again, the two buckets of accused
 02:27PM 5 products are Linkplay's own products and apps that it
 02:27PM 6 provides, you know, as a complete unit and then this -- these
 02:27PM 7 hardware modules and companion apps that Linkplay provides to
 02:27PM 8 third parties to develop their own multi-room products that
 02:27PM 9 they sell to end users.
 02:27PM 10 THE COURT: I don't know in this case, would there be
 02:27PM 11 a chance of Sonos bringing in any of the third parties as a
 02:27PM 12 potential party, such as an Audio Pro?
 02:27PM 13 MR. BOYEA: It certainly is a possibility, Your
 02:27PM 14 Honor. You know, that's something we have not obviously
 02:27PM 15 eliminated at this stage, but I think it's going to depend
 02:27PM 16 largely on how cooperative Linkplay is with production of
 02:27PM 17 documents that we're requesting and the like.
 02:28PM 18 THE COURT: Okay. And then, I guess before I turn to
 02:28PM 19 Linkplay, I know that you filed an amended complaint and have
 02:28PM 20 named both, it looks like, Linkplay U.S. and then a Linkplay
 02:28PM 21 China. I mean, it looks like from the allegations in the
 02:28PM 22 complaint, your contention, the plaintiff's contention is that
 02:28PM 23 those entities are sort of essentially alter egos, is that
 02:28PM 24 right, or is there another basis of liability or reason for
 02:28PM 25 the Chinese company here?

02:28PM 1 MR. BOYEA: Cole, do you want to take that one?
 02:28PM 2 MR. RICHTER: Yeah, happy to. Cole Richter on behalf
 02:28PM 3 of Sonos. So two theories, at least two theories of
 02:28PM 4 liability, Your Honor. You're correct that we're contending
 02:28PM 5 that the two companies are alter egos, based at least in part
 02:28PM 6 on the fact that they share office spaces and they share
 02:28PM 7 executives, and we're anticipating discovery to bear that out.
 02:28PM 8 The second theory is an independent theory that
 02:29PM 9 Linkplay China ships those modules that Mr. Boyea was
 02:29PM 10 mentioning into the U.S. and delivers those and otherwise
 02:29PM 11 induces OEMs, original equipment manufacturers, like Audio
 02:29PM 12 Pro, as Mr. Boyea mentioned, and others to install those
 02:29PM 13 modules into players that are then either imported into the
 02:29PM 14 U.S. or are sold in the U.S. to end users. And so two
 02:29PM 15 theories of liability for the Chinese entity, Your Honor.
 02:29PM 16 THE COURT: Okay. Okay. Thank you. Why don't I
 02:29PM 17 hear then from Linkplay as to additional context here as to
 02:29PM 18 maybe, I think it's sometimes helpful to hear about the
 02:29PM 19 competing products and any views as to the patents in suit
 02:29PM 20 here. So from the defendants? I don't know who would take
 02:29PM 21 the lead.
 02:29PM 22 MS. KELLER: Yes, Your Honor. Ms. Song will take the
 02:29PM 23 lead on behalf of Linkplay as to the accused products.
 02:29PM 24 THE COURT: Thank you. Ms. Song?
 02:30PM 25 MS. SONG: Your Honor, Mandy Song on behalf of

02:30PM 1 Linkplay. Maybe I should start by introducing the defendants.
 02:30PM 2 So when -- as Your Honor recognized, this case was originally
 02:30PM 3 filed against the one single defendant, Linkplay Technology,
 02:30PM 4 Inc., and I will call it Linkplay U.S. because it's a U.S.
 02:30PM 5 entity. It's actually operating out of the Northern
 02:30PM 6 California area.
 02:30PM 7 And Linkplay U.S. answered with affirmative defenses
 02:30PM 8 and the counterclaims on March 28th. And actually on
 02:30PM 9 April 1st, this Court sets the Rule 16 conference to be held
 02:30PM 10 today, probably assuming, you know, initial pleadings will
 02:30PM 11 have been complete by this conference because Linkplay U.S.
 02:30PM 12 answered without filing any motions. However, in mid-April,
 02:30PM 13 plaintiff decided to amend the complaint to add another
 02:30PM 14 defendant, that's Linkplay Technology Inc. Nanjing, which is a
 02:31PM 15 Chinese entity, I'll just call it Linkplay China, and also
 02:31PM 16 added accused products. And those Linkplay entities are much
 02:31PM 17 smaller entities, companies. Linkplay U.S., for example, has
 02:31PM 18 only single digits of employees. Linkplay China probably has
 02:31PM 19 around 100. So they're smaller companies.
 02:31PM 20 So at this point, because of the amended complaint
 02:31PM 21 and Linkplay China actually takes the position that the Court
 02:31PM 22 does not have personal jurisdiction over it. So we're
 02:31PM 23 actually filing, in response to the amended complaint, a
 02:31PM 24 Motion to Dismiss for lack of personal jurisdiction tomorrow.
 02:32PM 25 And then Linkplay U.S. is going to answer the amended

02:32PM **1** complaint tomorrow as well. And we're also filing a transfer
 02:32PM **2** motion to transfer this case to the Northern District of
 02:32PM **3** California with or without the Chinese entity.
 02:32PM **4** So with all of these new developments, our Delaware
 02:32PM **5** counsel, Ms. Keller, is going to touch on that more when we
 02:32PM **6** move to talk about the scheduling order. That really
 02:32PM **7** complicates and it really challenges the parties to discuss
 02:32PM **8** and set a schedule for the case at this point with all of
 02:32PM **9** these -- all of the pleadings not -- initial pleadings not
 02:32PM **10** complete. And these motions that will impact the scope of the
 02:32PM **11** case in terms of who will be the parties and then which
 02:32PM **12** parties should be subject to discovery, for example,
 02:33PM **13** and whether the claims in the case -- I don't know if I leave
 02:33PM **14** that out -- but Sonos also filed a Motion to Dismiss Linkplay
 02:33PM **15** U.S. original current claims on April 18th. So Linkplay has
 02:33PM **16** yet to oppose that motion yet. But that's something that will
 02:33PM **17** potentially changed the scope of the case as well. So it's a
 02:33PM **18** bit premature to talk about scheduling order at this point, or
 02:33PM **19** sort of complicate everything right now.
 02:33PM **20** So that's kind of just an introduction of the two
 02:33PM **21** entities on the defense side.
 02:33PM **22** THE COURT: Can I ask you, and you may be getting
 02:33PM **23** into this, what the two entities do in terms of, like, you
 02:33PM **24** know, does -- the relationship between the two. And does one
 02:33PM **25** do -- you know, do they have different sort of

02:34PM **1** responsibilities and duties and functions, I should say?
 02:34PM **2** MS. SONG: Yeah. I was about to get into that --
 02:34PM **3** THE COURT: I'm sorry. I cut you off.
 02:34PM **4** MS. SONG: -- which will come out in more detail on
 02:34PM **5** our motion tomorrow. But you heard plaintiff's counsel talk
 02:34PM **6** about the two theories that they think the Chinese entities
 02:34PM **7** are relevant, and neither theory is factually correct. Again,
 02:34PM **8** we are going to put in more facts in our motion tomorrow.
 02:34PM **9** But although Linkplay China is a parent company of
 02:34PM **10** Linkplay U.S., they have -- they operate independently. They
 02:34PM **11** have different roles. While Linkplay U.S. is, you know,
 02:34PM **12** again, operating out of the U.S. and does more of the
 02:34PM **13** marketing, sales to serve the U.S. market as opposed to the
 02:35PM **14** Chinese entity is focusing more on research and development
 02:35PM **15** and other aspects. So we take the position the U.S. entity
 02:35PM **16** isn't the alter ego of the Chinese entity.
 02:35PM **17** And on the other theory that plaintiff's counsel
 02:35PM **18** touched on in terms of how Linkplay China ships products into
 02:35PM **19** the U.S. market, that's just not factually true. The
 02:35PM **20** manufacturing and sales was actually done outside of China.
 02:35PM **21** And in terms of the modules, you know, as Your Honor
 02:35PM **22** correctly recognized, those will -- those are purchased by
 02:35PM **23** third parties and the third party gets to decide how and in
 02:36PM **24** what product they're going to install the modules and how they
 02:36PM **25** would like to program them to perform certain functions they

02:36PM **1** desire. So our position is neither theory really holds, and
 02:36PM **2** we will move to dismiss Linkplay China.
 02:36PM **3** MS. KELLER: Your Honor, this is Karen Keller.
 02:36PM **4** Quickly, just to make clear, for purposes of Linkplay China,
 02:36PM **5** it is the U.S. entity that buys the product from Linkplay
 02:36PM **6** China, imports the product. It never -- the Chinese entity is
 02:36PM **7** finished with the products after R & D and manufacture and
 02:36PM **8** everything else takes place with the U.S. entity. So
 02:36PM **9** importation, they take possession of the product overseas and
 02:36PM **10** then they import it, and there's a, you know, agreement
 02:36PM **11** between the two that that's how it will occur.
 02:36PM **12** THE COURT: Okay. So take title over and outside of
 02:37PM **13** the U.S.?
 02:37PM **14** MS. SONG: Yeah. I believe the term is FOB. So it's
 02:37PM **15** actually FOB somewhere in China, or at least outside the
 02:37PM **16** United States.
 02:37PM **17** THE COURT: Okay. Can I ask you this: So I'm not
 02:37PM **18** suggesting that Sonos has named the Chinese entity for this
 02:37PM **19** reason, but I'm sure in other cases there's maybe a naming --
 02:37PM **20** adding a foreign entity in this circumstance. Because that
 02:37PM **21** foreign entity, while maybe not importing the products or
 02:37PM **22** holding title of the products, has all of the specs that we're
 02:37PM **23** going to need in the course of discovery, and as a party in
 02:37PM **24** the case when we're -- it makes it a little bit easier to get
 02:37PM **25** discovery as opposed to going through the Hague Convention

02:37PM **1** route. I don't know if -- and I'll certainly hear Sonos'
 02:37PM **2** position on that, but, you know, I wonder if, and I've thought
 02:38PM **3** about this and talked about it in other cases, if that is a
 02:38PM **4** concern, if it's more of a, you know, we are not entirely sure
 02:38PM **5** how title is passed. You know, we'll sort of flesh that out
 02:38PM **6** in discovery. But assuming that, you know, the title is
 02:38PM **7** passed outside of the United States in the products, at least
 02:38PM **8** there will be an issue of, when we get into discovery, the
 02:38PM **9** U.S. entity says, well, we don't have any of -- we don't have
 02:38PM **10** any of the documents, we don't have any of the technical
 02:38PM **11** specifications, we don't have anything. You're going to have
 02:38PM **12** to go to our partner in China, and then it becomes difficult
 02:38PM **13** to get those documents because then sometimes there will be
 02:38PM **14** insistence on the Hague Convention and enforcement of
 02:38PM **15** discovery orders.
 02:38PM **16** And I kind of throw that out to maybe we don't have
 02:38PM **17** to land on anything, you don't have to tell me anything, but
 02:38PM **18** sometimes I wonder if there's, you know, agreements that can
 02:38PM **19** be made in that respect, whether it's an agreement to abide --
 02:39PM **20** I know there's already been an agreement as to service in this
 02:39PM **21** case, or a stipulation. But, you know, if there's some type
 02:39PM **22** of agreement as to how a, you know, foreign entity might
 02:39PM **23** respond to discovery without the need to go through the Hague
 02:39PM **24** Convention in exchange for, you know, a standstill or some
 02:39PM **25** kind of agreement as to that entity. So poorly worded but

02:39PM **1** hopefully you sort of get the gist of where I'm going with
 02:39PM **2** that.
 02:39PM **3** MS. KELLER: Yes, Your Honor. And I can't speak for
 02:39PM **4** Sonos' thoughts in adding the entity, but I do -- I have seen
 02:39PM **5** in other cases where there's a foreign entity where we have
 02:39PM **6** been able to get dismissal of the entity in exchange for
 02:39PM **7** participating in discovery. I'm not -- we haven't, obviously,
 02:39PM **8** talked to the client yet about that or discussed internally,
 02:39PM **9** but it is something I have seen in other matters that I've
 02:39PM **10** worked on.
 02:39PM **11** THE COURT: Okay. Great. I appreciate it.
 02:39PM **12** MR. RICHTER: On Sonos' -- sorry to interrupt, Your
 02:40PM **13** Honor. On Sonos' side, we'd be happy to confer with the
 02:40PM **14** defendants on that. Our concern at this stage is the
 02:40PM **15** liability. So to the extent that Linkplay U.S. can assume
 02:40PM **16** liability for Linkplay China, I mean, we would -- we can't
 02:40PM **17** release Linkplay China from whatever liability it's
 02:40PM **18** responsible for. So to the extent that that agreement is
 02:40PM **19** perhaps necessary as well, we would be happy to confer on
 02:40PM **20** that.
 02:40PM **21** THE COURT: I guess on that and I'm -- you know, I'm
 02:40PM **22** no patent expert, so you all can tell me otherwise, but in
 02:40PM **23** terms of if it turns out that the products -- I guess the
 02:40PM **24** products that are sent from Linkplay China to Linkplay U.S.
 02:40PM **25** are all done overseas and the title is passed overseas, it

02:40PM **1** would seem that on that part of the claim as to Linkplay
 02:40PM **2** China, the plaintiff may not have a claim there. On the
 02:41PM **3** inducement part claim as to other third parties, I'm not as
 02:41PM **4** clear on that as to whether and how title is passed, whether
 02:41PM **5** there would be that kind of, I guess, indirect liability.
 02:41PM **6** Let's assume that Linkplay -- it turns out in
 02:41PM **7** discovery Linkplay China sells products overseas, title is
 02:41PM **8** taken by the third parties. You know, would the plaintiff
 02:41PM **9** still have an inducement theory there in that circumstance?
 02:41PM **10** MR. RICHTER: We would, yes, Your Honor. The case
 02:41PM **11** law is pretty clear on this point that, even overseas
 02:41PM **12** activities giving rise to liability under 271(f), as long as
 02:41PM **13** there is an active, direct infringement under 271(a) that
 02:41PM **14** occurs in the U.S., then entities, foreign or U.S., that
 02:42PM **15** participate in activities encouraging, inducing users, you
 02:42PM **16** know, to that effect, even if that activity occurs overseas,
 02:42PM **17** that still generates liability under indirect infringement
 02:42PM **18** under 271(b), at least.
 02:42PM **19** THE COURT: Okay. Well, one thought before we just
 02:42PM **20** leave we this point. I do think it makes sense, you know, to
 02:42PM **21** confer on this to see if any agreements can be made as to the
 02:42PM **22** Linkplay Chinese entity. If it turns out, especially after
 02:42PM **23** you see the Motion to Dismiss for lack of personal
 02:42PM **24** jurisdiction, there are some facts that are sorted out that
 02:42PM **25** might make it, you know, more amenable to a stipulation or an

02:42PM **1** agreement. I'm not prejudging any -- I obviously don't know
 02:42PM **2** any of that, but I did want to just flag that one, you know,
 02:42PM **3** foreign discovery point. It sounds like Ms. Keller kind of
 02:42PM **4** confirmed that there are in other cases sort of stipulations
 02:43PM **5** that address that.
 02:43PM **6** I'm sorry, Ms. Song. I know I cut you off.
 02:43PM **7** MS. SONG: Sure. All right. I guess if it were good
 02:43PM **8** on that end, I'd like to say something about the patents.
 02:43PM **9** THE COURT: Yes.
 02:43PM **10** MS. SONG: So I want to bring to the attention of
 02:43PM **11** Your Honor that all of the five asserted patents are actually
 02:43PM **12** a result of so-called continuing patent practice. And you
 02:43PM **13** heard Sonos counsel say that Sonos was founded around 2002 and
 02:43PM **14** most of their major four inventions were made around the 2003
 02:43PM **15** and 2004 time frame. And in fact, as they said, most of the
 02:43PM **16** patent applications that were filed at that time as well. But
 02:43PM **17** these asserted patents were not a result of this original
 02:44PM **18** patent application. But instead, much later filed so-called
 02:44PM **19** continuations or continuation in part patent applications.
 02:44PM **20** So how does that work is, you know, patent -- patent
 02:44PM **21** owners could file their original application early on and then
 02:44PM **22** keep filing continuations or continuation in part to claim the
 02:44PM **23** priority to that earlier application. But then they get to at
 02:44PM **24** the time they filed a new continuing application to write new
 02:44PM **25** claims, new patent claims. And it's the claims that define

02:44PM **1** the protection scope of each patent.
 02:44PM **2** So basically, there is all these patents subject to a
 02:44PM **3** situation that the inventions were made really early on, 2003,
 02:45PM **4** 2004, and applications were filed at that time, too. But
 02:45PM **5** Z patent, they're asserting they get to write their patent
 02:45PM **6** much later, and I want to give you just one example. You
 02:45PM **7** probably recall you heard a patent called a setup patent.
 02:45PM **8** It's the '883 patent in this case. And the original
 02:45PM **9** application was filed in 2004. And the Z883 patent was filed
 02:45PM **10** in 2019. And it just incurred on new claims. So although
 02:45PM **11** that continuing patent application practice is allowed under
 02:45PM **12** the U.S. patent system, but there are issues with it, and
 02:45PM **13** those issues would cause likely the patents to be invalid or
 02:45PM **14** unenforceable.
 02:45PM **15** One issue would be because, you know, the
 02:45PM **16** applications were filed so early on, they obviously describe,
 02:46PM **17** as, you know, the implementation that Sonos had back in the
 02:46PM **18** days. But now you have a new continued application in 2019,
 02:46PM **19** you get to see how this market evolved over the time and how
 02:46PM **20** new technologies and new products get developed. And you have
 02:46PM **21** the benefit of having an earlier priority date and then get to
 02:46PM **22** write claims to cover later products.
 02:46PM **23** So there are equitable issues associated with it, the
 02:46PM **24** so-called patent the prosecution alleges, that is actually an
 02:46PM **25** issue right now on appeal to the federal circuit in another

02:46PM **1** Sonos case against Google in the Northern District of
 02:46PM **2** California. And that district court actually found Sonos
 02:46PM **3** patents unenforceable precisely because they waited too long
 02:46PM **4** to claim their invention in a later continuing application.
 02:47PM **5** And there are also so-called patent invalidity issues
 02:47PM **6** because when you keep presumably broadening the protection
 02:47PM **7** scope to cover new technologies, then you may run into the
 02:47PM **8** problem that your new claims may not be fully described and
 02:47PM **9** your original 15-years-ago application may not be enabled.
 02:47PM **10** Both written description and enablement are part of the
 02:47PM **11** requirements under the patent law that you have to comply
 02:47PM **12** with, even the continuing applications. So those could very
 02:47PM **13** likely cause invalidity issues to the Sonos patents.
 02:47PM **14** And of course, again, because the Sonos inventions
 02:47PM **15** were made in the 2003-2004 time frame, actually, I believe
 02:48PM **16** four out of the five asserted patents were originally filed at
 02:48PM **17** that time, they have quite different implementations than the
 02:48PM **18** implementations or the technologies today and the technology
 02:48PM **19** that Linkplay uses in their products. So Linkplay also
 02:48PM **20** believes their products, because they use very different
 02:48PM **21** technologies, do not infringe the -- any valid and enforceable
 02:48PM **22** patents as well. So all of these issues are in play in this
 02:48PM **23** case and we expect it will be a pretty complex case.
 02:48PM **24** Actually, there is another thing. So talking about
 02:48PM **25** those patents, the same asserted patents are similar patents,

02:48PM **1** meaning the same patent family, like a child or parents of
 02:48PM **2** each other, were asserted against different opponents in the
 02:49PM **3** past by Sonos. For example, there's a case about ten years
 02:49PM **4** ago in this, in Delaware, that it is against a company called
 02:49PM **5** D&M Holdings. And most recently, Sonos asserted against
 02:49PM **6** Google in several forums, the International Trade Commission,
 02:49PM **7** ITC; Central District of California; and the Northern District
 02:49PM **8** of California, and those cases were all fully litigated. And
 02:49PM **9** in particular, multiple issues, and that's patent
 02:49PM **10** infringement, invalidity, and unenforceability issues from the
 02:49PM **11** Google case, cases, all went on appeal to the federal circuit.
 02:49PM **12** So we expect -- actually, the federal circuit issued one
 02:49PM **13** opinion on issues related to the ITC case recently and then we
 02:49PM **14** expect the federal circuit might issue other opinions as time
 02:50PM **15** goes on, and all of those opinions would have impact on the
 02:50PM **16** course of this case.
 02:50PM **17** And in particular, in the recent federal circuit
 02:50PM **18** opinion, the federal circuit actually affirmed the ITC
 02:50PM **19** decision that certain Google products do not infringe Sonos'
 02:50PM **20** patents and those are synchronization, volume control; setup
 02:50PM **21** patents, I believe, that are at least, if not identical, at
 02:50PM **22** least similar to those patents asserting in this case. And
 02:50PM **23** Linkplay for their -- you know, based on those decisions,
 02:50PM **24** those provide a clear guidance to where infringement and
 02:50PM **25** invalidity might go in this case. And based on those

02:50PM **1** decisions, Linkplay thinks that it has a pretty good position
 02:50PM **2** that it doesn't infringe and the patents are invalid or
 02:50PM **3** unenforceable.
 02:50PM **4** And what's also on appeal is, I think I mentioned
 02:51PM **5** from the Northern District of California in particular, issue.
 02:51PM **6** So that case went to trial against Google and that court
 02:51PM **7** issued a post-verdict order finding Sonos patents
 02:51PM **8** unenforceable, precisely on the issue of patent the
 02:51PM **9** prosecution alleges. So that issue is before the federal
 02:51PM **10** circuit and we think that that issue will be litigated in this
 02:51PM **11** case as well.
 02:51PM **12** THE COURT: Thank you.
 02:51PM **13** MS. SONG: All of these indications are, we suggest
 02:51PM **14** that the case -- this case here might become a pretty
 02:51PM **15** complicated case as well. And that also lead us, the
 02:51PM **16** defendants cite to propose that we have -- we have probably a
 02:52PM **17** little bit slower pace than the plaintiff proposed in the
 02:52PM **18** scheduling order.
 02:52PM **19** So I think that's -- oh, about the accused products.
 02:52PM **20** I think Sonos counsel nicely laid out their two categories.
 02:52PM **21** One is Linkplay's own branded products, and the other category
 02:52PM **22** so-called Linkplay modules. So those are modules, those are
 02:52PM **23** PCB boards with, you know, certain components on it with the
 02:52PM **24** capability of being programmed. So a third party could
 02:52PM **25** purchase those modules and put them in their own products and

02:52PM **1** programming any way that they want.
 02:52PM **2** And Linkplay does, you know, sort of advertise that
 02:52PM **3** module saying "Powered by Linkplay," or the sign was "Linkplay
 02:53PM **4** Inside." And this is -- they are similar to, Your Honor might
 02:53PM **5** be familiar with the "Intel Inside" slogan. So basically, you
 02:53PM **6** know, you've got that chip in your device. But in terms of
 02:53PM **7** how exactly you program that chip to perform what function,
 02:53PM **8** it's entirely that third party's decision. So Linkplay's
 02:53PM **9** position is those modules accused shouldn't be, shouldn't even
 02:53PM **10** be in the case.
 02:53PM **11** THE COURT: Okay. All right. Thank you. I don't
 02:53PM **12** know from Sonos, I guess anything else by way of background?
 02:53PM **13** I'll give you a chance to respond to anything you think I need
 02:53PM **14** to know.
 02:53PM **15** MR. BOYEA: You know, I think we'll have plenty of
 02:53PM **16** briefing before you that -- we can give you more background in
 02:53PM **17** the future. We don't need to take up any more of your time
 02:54PM **18** right now.
 02:54PM **19** THE COURT: All right. I appreciate it. Let's talk
 02:54PM **20** about the schedule, then. Obviously, Ms. Song alluded to it,
 02:54PM **21** and I saw from the proposed scheduling order the parties have
 02:54PM **22** a dispute as to, I suppose, the pace of the case. And it
 02:54PM **23** looks like -- I have the last page of the chart here before
 02:54PM **24** me. And it looks like, really, defendants' proposal would be
 02:54PM **25** to start the schedule after the close of the pleadings and the

02:54PM **1** briefing and the Motion to Dismiss. Is that right, from the
02:54PM **2** defendants' standpoint?
02:54PM **3** MS. KELLER: Yes, Your Honor, for the reasons
02:54PM **4** Ms. Song said. We know it's not typical to do it that way.
02:54PM **5** We know we're asking for something a little bit different.
02:54PM **6** Given that really the scope of the case has yet to be defined
02:54PM **7** fully, the parties of the case have yet to be defined fully
02:54PM **8** and, you know, Sonos has already subpoenaed for third parties,
02:55PM **9** it's just getting bigger as the days pass by that we think
02:55PM **10** it's kind of an atypical case in that sense. So we've sought
02:55PM **11** a slightly longer schedule that's more teed off of after all
02:55PM **12** of this motion practice is complete here.
02:55PM **13** We are amending our counterclaims. So we believe our
02:55PM **14** Motion to Dismiss -- Sonos' Motion to Dismiss will be mooted,
02:55PM **15** but we don't know whether they will move again to -- as well.
02:55PM **16** So there could be still some pending motions to dismiss in
02:55PM **17** addition to our jurisdictional motion.
02:55PM **18** THE COURT: Okay. And just so -- one second here.
02:55PM **19** (Brief pause.)
02:55PM **20** THE COURT: Okay. I know what I was going to ask.
02:55PM **21** The motion to transfer, is that also going to be filed
02:56PM **22** tomorrow, or is that something that will be filed at a later
02:56PM **23** point?
02:56PM **24** MS. KELLER: Yes, Your Honor. It will be one motion,
02:56PM **25** one brief. It will be a Motion to Dismiss the Chinese entity

02:56PM **1** for lack of personal jurisdiction and then a motion to
02:56PM **2** transfer the U.S. entity, the case against the U.S. entity to
02:56PM **3** California. And should the Court find that jurisdiction is
02:56PM **4** proper over the Chinese entity, that that case should also go
02:56PM **5** for convenience with the U.S. entity to California. But it
02:56PM **6** will all be in one 20-page brief that gets filed tomorrow.
02:56PM **7** THE COURT: All right. Thank you.
02:56PM **8** From the plaintiff, obviously a different approach?
02:56PM **9** MR. RICHTER: A couple of issues, Your Honor. Yeah.
02:56PM **10** Plaintiff tried very hard to stick to example schedules
02:56PM **11** ordered by the District of Delaware and Your Honor, of course,
02:56PM **12** and proposed what we thought was a pretty typical schedule for
02:57PM **13** a patent case.
02:57PM **14** The defendants' schedule has a couple of problems and
02:57PM **15** the number one is a gating issue where it's not clear what
02:57PM **16** deadline or what date they're hinging the schedule to be
02:57PM **17** started off of. Is it after all of the briefing is complete?
02:57PM **18** Is it after Your Honor renders a decision on Rule 12 motions?
02:57PM **19** Does that include venue motions? Does it include the date
02:57PM **20** that they answer after the Rule 12 motions are disposed of?
02:57PM **21** And so depending on what they're thinking there, that could
02:57PM **22** put that deadline well into the summer and possibly the early
02:57PM **23** fall. It's hard to estimate at this point.
02:57PM **24** But even under a very conservative approach, saying
02:57PM **25** that all of that closes in mid-July, we're talking about not

02:57PM **1** starting the case really until mid-October. Defendants have
02:57PM **2** proposed that their production of core technical documents,
02:57PM **3** for example, be 14 weeks after the briefing closes. And so if
02:58PM **4** that's mid-July, that puts that core production at
02:58PM **5** mid-October. We just don't see why these Rule 12 motions
02:58PM **6** would constitute that or necessitate that delay.
02:58PM **7** And frankly, it seems like it's a bit of a self-help
02:58PM **8** approach to filing a motion to stay pending disposition of
02:58PM **9** motions on the pleadings. And if that were the approach, then
02:58PM **10** they would have to establish that the factors that Delaware
02:58PM **11** courts usually consider with motions to stay, such as the
02:58PM **12** simplification of the issues, the prejudice to the plaintiff,
02:58PM **13** which is going to be large considering they're direct
02:58PM **14** competitors, Your Honor. The defendants are continuing to
02:58PM **15** release infringing products. In fact, they've released two
02:58PM **16** new products just this month while the case was pending. So
02:58PM **17** we don't really see that a delay in starting this case is
02:58PM **18** warranted.
02:58PM **19** And then, you know, even setting that aside, their
02:59PM **20** proposals for individual dates, you know, further delay
02:59PM **21** things, including, you know, putting Markman at the very end
02:59PM **22** of the case. There seems to be about a seven- or eight-month
02:59PM **23** dead period between Daubert motions and trial. So we think
02:59PM **24** that it's too much delay and we should get started right away,
02:59PM **25** and Sonos is suffering harm every day. We just don't see that

02:59PM **1** a delay is warranted in this case, Your Honor.
02:59PM **2** MR. ROVNER: Your Honor, this is Phil Rovner. I'm
02:59PM **3** Delaware counsel for Sonos. And I would just say that,
02:59PM **4** because in response to Your Honor's comment in the beginning
02:59PM **5** about you wanted to adhere to Delaware federal court
02:59PM **6** procedure, in my experience, and I've been doing this for over
02:59PM **7** 30 years, I have not seen, you know, this -- you know, I've
02:59PM **8** seen these efforts but they're usually not awarded because it
02:59PM **9** would set bad precedent because every defendant would file
03:00PM **10** motions. And I'm not saying -- you know, maybe they had
03:00PM **11** merit, maybe they don't, but -- and our judges have a large
03:00PM **12** patent docket and some things take time. And I think the
03:00PM **13** precedent here would be a bad one because every defendant
03:00PM **14** would file motions, and cases would get delayed.
03:00PM **15** Our rules -- we don't have a rule, a local rule, that
03:00PM **16** modifies, you know, when discovery can commence. I've been on
03:00PM **17** 26(f) conferences where I've hung up the phone and five
03:00PM **18** seconds later I've gotten discovery requests. So I'm not
03:00PM **19** saying that's what should be appropriate here, but I really
03:00PM **20** think that this would not be the Delaware way, if there is
03:00PM **21** one, and I think that, as Mr. Richter said, we should proceed
03:00PM **22** with discovery as opposed to this delay of an undetermined
03:00PM **23** length.
03:00PM **24** MS. KELLER: May I respond briefly, Your Honor?
03:00PM **25** THE COURT: Yes.

03:00PM **1** MS. KELLER: So I also have practiced in Delaware for
 03:00PM **2** upwards of 20-some years now as well. I think I acknowledged
 03:01PM **3** that this would be atypical for a Delaware schedule. I don't
 03:01PM **4** think we're saying this would be typical Delaware practice. I
 03:01PM **5** think we tried to avoid motion practice in front of Your
 03:01PM **6** Honor. But giving you another motion to stay discovery
 03:01PM **7** pending the various things we just discussed, I think we have
 03:01PM **8** meritorious arguments on a motion to stay to push off
 03:01PM **9** discovery pending these decisions. For one, Nanjing should
 03:01PM **10** not be required to participate in discovery subject to its
 03:01PM **11** jurisdictional motion. You know, maybe the plaintiff will
 03:01PM **12** show entitlement to some jurisdictional discovery, but we
 03:01PM **13** think that should be limited to that.
 03:01PM **14** But, you know, the dates in between, once we figure
 03:01PM **15** out when they start, I think we could meet and confer in good
 03:01PM **16** faith as to what the deadlines look like when we know a little
 03:01PM **17** bit more about how long Your Honor prefers between different
 03:01PM **18** deadlines and that sort of thing. We're not opposed to
 03:01PM **19** necessarily reconvening and discussing that. I think it's
 03:02PM **20** really just the start times so that we can get a better feel
 03:02PM **21** for the start of this case generally. And it sounds like
 03:02PM **22** they've got some new products they may want to add now.
 03:02PM **23** It's just all been in flux and every day something
 03:02PM **24** changes. So until we kind of settle on something, you know, I
 03:02PM **25** think our inclination for the date, the start date was really,

03:02PM **1** and I hate to say this, but Your Honor's decision on at least
 03:02PM **2** the jurisdictional motion. But, you know, we really defer to
 03:02PM **3** Your Honor in that aspect.
 03:02PM **4** THE COURT: I guess where I'm at on this is -- I
 03:02PM **5** mean, I do think it makes sense to have a little breathing
 03:02PM **6** room on some of these issues that are going to be fleshed out,
 03:02PM **7** including the motion to transfer, the motion for dismissal of
 03:02PM **8** a lack of personal jurisdiction. But I, obviously, am
 03:02PM **9** concerned about something that's so indefinite with respect to
 03:02PM **10** the schedule that it could drag out unnecessarily. And I
 03:03PM **11** think at the end of the day, you know, if I were to grant the
 03:03PM **12** motion to transfer, you know, the case goes where it's at over
 03:03PM **13** to, I presume, the Northern District of California. And so
 03:03PM **14** what's been done, it's not like you sort of start over, so I
 03:03PM **15** don't think it would be much prejudice there.
 03:03PM **16** And then, with respect to the lack of personal
 03:03PM **17** jurisdiction, you know, if I end up deciding that Nanjing --
 03:03PM **18** I'm sorry, Linkplay China, there's lack of personal
 03:03PM **19** jurisdiction there, you know, I think still discovery could be
 03:03PM **20** started as to the U.S. entity in the meantime.
 03:03PM **21** And so my thought would be to abide by the
 03:03PM **22** plaintiff's proposed schedule but maybe just kick the start
 03:03PM **23** date out by two months. So I think the first date is May 23rd
 03:03PM **24** and we'd just kick everything out two months. That will
 03:03PM **25** allow, I think, the briefing to come in. I suspect the

03:03PM **1** motions aren't going to be overly, you know, complicated for
 03:04PM **2** me to decide. And so my hope would be I can try to get to
 03:04PM **3** those sooner rather than later. But, you know, doing --
 03:04PM **4** pushing it out about 60 days, I don't think would then
 03:04PM **5** prejudice the plaintiff's ability as well to really start
 03:04PM **6** discovery. And so I think I'd like to do that, and then maybe
 03:04PM **7** just have all of you confer on some of those interim dates.
 03:04PM **8** It sounds like there's some flex and possibility of
 03:04PM **9** negotiation on those.
 03:04PM **10** And then as part of that process, I think it probably
 03:04PM **11** makes sense to, because I think it impacts the schedule, to
 03:04PM **12** have those discussions on things like stipulations as to
 03:04PM **13** Linkplay China as well because, you know, that could affect
 03:04PM **14** how things are scheduled, and maybe there's a view to shift
 03:04PM **15** the schedule around, depending on any agreements that are
 03:04PM **16** reached there.
 03:04PM **17** So the idea would be to kick things out an extra 60
 03:04PM **18** days from the start, you all can kind of confer on some of the
 03:04PM **19** interim dates where I'm sure there will be an agreement on
 03:05PM **20** that and it won't prolong the schedule unnecessarily and at
 03:05PM **21** least give all of you and give me a runway on the dispositive
 03:05PM **22** motions.
 03:05PM **23** Any questions or issues or concerns about that
 03:05PM **24** approach?
 03:05PM **25** MS. KELLER: Your Honor, one question.

03:05PM **1** MR. RICHTER: Question -- go ahead, Ms. Keller.
 03:05PM **2** MS. KELLER: I was just going to say, one question
 03:05PM **3** with regard to when we talked about the interim dates, it
 03:05PM **4** might be helpful to know, does Your Honor have a preference
 03:05PM **5** for length of time following the closing of the Markman
 03:05PM **6** briefing until Your Honor holds the hearing? And then, same
 03:05PM **7** for case dispositive and Daubert briefing with regard to
 03:05PM **8** timing for the pretrial conference. I know some of our
 03:05PM **9** Delaware judges kind of like a four-week time frame for that
 03:05PM **10** Markman date and then three months for summary judgment to
 03:05PM **11** pretrial. I don't know if Your Honor has a different
 03:05PM **12** preference.
 03:05PM **13** THE COURT: Those both work for me. I think in
 03:05PM **14** the -- I think in the other schedule orders that I've entered,
 03:05PM **15** they've been roughly around that time. Don't hold me to that.
 03:06PM **16** But I believe -- I believe, you know, that's sort of
 03:06PM **17** consistent with what I've done.
 03:06PM **18** The reality is, when you enter a schedule like this,
 03:06PM **19** too, and little things are tweaked, you know, I end up having
 03:06PM **20** to confer with folks as to the Markman hearing date down the
 03:06PM **21** road anyway. And so it tends to not hold firm to the end of
 03:06PM **22** the briefing. But I think if you have that same structure in
 03:06PM **23** mind, I think it will probably make sense and hold together.
 03:06PM **24** MS. KELLER: That's helpful, Your Honor. Thank you.
 03:06PM **25** THE COURT: Thank you.

03:06PM **1** MS. SONG: Your Honor, if I may to also get some
 03:06PM **2** guidance from you in terms of the interim dates as we
 03:06PM **3** discussed with Sonos counsel. So as I mentioned, there is a
 03:06PM **4** case Sonos asserted against D&M Holdings in this district and
 03:07PM **5** it was, I believe, before Judge Andrews, and there was a
 03:07PM **6** scheduling order entered in that case. So would Your Honor
 03:07PM **7** be -- consider it's reasonable to sort of consult to that
 03:07PM **8** scheduling order given the similarities in the patents and,
 03:07PM **9** obviously, parties to come up with our interim dates?
 03:07PM **10** THE COURT: I'm fine if you want to confer. I
 03:07PM **11** haven't seen that schedule. But my model is to try to really
 03:07PM **12** be to based off of Judge Andrew's schedule. Unless something
 03:07PM **13** like that is a little bit unusual, I think it make sense to
 03:07PM **14** confer, look to that schedule to provide some guidance.
 03:07PM **15** I guess it's a way of saying I'd like to adhere to
 03:07PM **16** sort of what I know what he's done and done well for a long
 03:07PM **17** time. But I'm open to, you know, a more flexible approach if
 03:07PM **18** the parties believe, based on this particular case and these
 03:08PM **19** particular patents and some of the other issues, that certain
 03:08PM **20** deadlines need to be expanded or compressed for any reason,
 03:08PM **21** that's fine by me.
 03:08PM **22** I will say this: I mean, I really -- I do try to
 03:08PM **23** hold, as a general matter, hold people's feet to the fire as
 03:08PM **24** to the schedule and so that might be something you can also
 03:08PM **25** take into account. I like to set the deadlines and try not to

03:08PM **1** move them as best as we can. Obviously, that doesn't always
 03:08PM **2** happen. But that might be also another consideration as
 03:08PM **3** you're looking at some of these dates.
 03:08PM **4** I'd rather that there be a little bit more breathing
 03:08PM **5** room and little bit of a longer schedule with the
 03:08PM **6** understanding that it's not going to be moved. And so that
 03:08PM **7** the parties, the lawyers and the parties can have more
 03:08PM **8** flexibility to meet those deadlines. So hopefully that
 03:08PM **9** provides also a little bit more guidance.
 03:08PM **10** MR. BOYEA: And Your Honor --
 03:08PM **11** MS. SONG: Thank you, Your Honor.
 03:08PM **12** MR. BOYEA: Excuse me. Sorry, Mandy. Your Honor,
 03:08PM **13** just to give you context -- and we articulated this to
 03:09PM **14** Linkplay during the conference -- we looked at the three
 03:09PM **15** orders that you had already entered for cases that you're
 03:09PM **16** sitting by designation. I think it was the Samsung, there was
 03:09PM **17** a DJI case, and I can't remember the other one. We also
 03:09PM **18** looked at the D&M schedule, the Denon schedule that we had in
 03:09PM **19** front of Judge Andrews. And then there was the countersuit
 03:09PM **20** that D&M sued Sonos we had to schedule Judge Andrews. We
 03:09PM **21** looked at all five of those, we synthesized the dates, tried
 03:09PM **22** to make it as fair as possible. But we also took the reality
 03:09PM **23** that both the Denon cases had, like, the one had 12 patents at
 03:09PM **24** issue and then the countersuit, I think, had 10 or 11 patents
 03:09PM **25** at issue. So, you know, we took all of those factors in. And

03:09PM **1** we took time to pick these dates. Like, these dates aren't
 03:09PM **2** just thrown up on a piece of paper. And so, like, Sonos, we
 03:09PM **3** are completely comfortable with the pace that we have on this.
 03:09PM **4** So I just want to present that is, you know, Sonos' position.
 03:10PM **5** Of course, pushing the dates as you're going to do
 03:10PM **6** for two months, we'll certainly do that. We'll meet and
 03:10PM **7** confer with counsel on the other dates. But I fear we might
 03:10PM **8** be back with you again because the parties seem to be so far
 03:10PM **9** apart on what is a reasonable schedule and what isn't. So I
 03:10PM **10** just wanted to preview that with you, Your Honor.
 03:10PM **11** THE COURT: Okay. I appreciate that. So obviously,
 03:10PM **12** different cases, different number of patents, different issues
 03:10PM **13** might, you know, might tweak or lead to different schedules.
 03:10PM **14** But why don't we do this: I guess I would ask
 03:10PM **15** counsel to all confer on these issues, maybe within the next
 03:10PM **16** week, and then file either an agreed to amended scheduling
 03:10PM **17** order at that time. And if there are any disputes as part of
 03:10PM **18** that, you can flag them as part of the proposed scheduling
 03:11PM **19** order. And then I can determine whether or not it makes sense
 03:11PM **20** to hold another one of these video conferences where we can
 03:11PM **21** iron out any of the remaining disputes, or if I can just do
 03:11PM **22** it based on -- if I can just decide -- resolve the disputes
 03:11PM **23** based on the proposed scheduling order, I can do that as well.
 03:11PM **24** But that will, hopefully, give you all enough time to kind of
 03:11PM **25** confer and come to an agreement.

03:11PM **1** MR. RICHTER: Question, if I may, Your Honor?
 03:11PM **2** THE COURT: Yes.
 03:11PM **3** MR. RICHTER: I think I heard Your Honor say that you
 03:11PM **4** prefer maybe a short two-month delay, at least for Linkplay
 03:11PM **5** China, but that discovery should go forward on Linkplay U.S.,
 03:11PM **6** to some extent. I think that brings up some issues that the
 03:11PM **7** parties have had. I mean, defendants have, during our
 03:11PM **8** conference, taken the position that they're not going to
 03:11PM **9** participate in discovery until the initial exchanges have
 03:11PM **10** occurred, which I think includes by them plaintiff's initial
 03:12PM **11** infringement contentions and defendants' initial invalidity
 03:12PM **12** contentions.
 03:12PM **13** So our position is, I think that discovery should
 03:12PM **14** start and the parties should serve interrogatories and
 03:12PM **15** requests for production. Plaintiff has already done that and
 03:12PM **16** that the parties should, at least as to Linkplay U.S., should
 03:12PM **17** be participating in discovery at the outset of this case
 03:12PM **18** without waiting, you know, until the fall or the winter this
 03:12PM **19** year.
 03:12PM **20** THE COURT: Okay. From the defendants, any response?
 03:12PM **21** MS. KELLER: Yes, Your Honor. I don't think -- so,
 03:12PM **22** two things. One, I sat on a default committee for the default
 03:12PM **23** standard for electronic discovery and I know it's not typical
 03:12PM **24** practice here, but the purpose of the initial exchanges was
 03:12PM **25** also to help define the scope of the case, burden proportion,

03:12PM **1** and then also value of the case, which the parties are still
 03:12PM **2** working through. Putting that all aside, I don't think we're
 03:13PM **3** necessarily opposed on behalf of the U.S. entity to responding
 03:13PM **4** to the discovery to the extent we can. At this point, we
 03:13PM **5** can't obviously provide noninfringement contentions without
 03:13PM **6** having their infringement contentions, et cetera.
 03:13PM **7** I think our bigger concern was kind of the Chinese
 03:13PM **8** entity -- and we understand we've agreed to kind of respond as
 03:13PM **9** one if the Chinese entity becomes a party to the case so that
 03:13PM **10** they don't have to serve multiple requests of the same
 03:13PM **11** interrogatory. And I think our thought would be we would
 03:13PM **12** amend the responses at that point if the entity is part of the
 03:13PM **13** litigation. But I don't know that we necessarily oppose
 03:13PM **14** providing written responses to their requests to the extent
 03:13PM **15** they're not premature in terms of the context, like I said,
 03:13PM **16** noninfringement contentions and that sort of thing.
 03:13PM **17** THE COURT: Okay. I mean, Mr. Richter, Mr. Boyea, I
 03:14PM **18** don't know if that addresses your concern. I mean, that seems
 03:14PM **19** reasonable to me. I think, you know, we'll push the schedule
 03:14PM **20** back as to the start of initial disclosures by two months. If
 03:14PM **21** there are some, you know, I suppose I'd call them discreet
 03:14PM **22** discovery requests that could be directed at the U.S. entity
 03:14PM **23** that could get the ball really rolling, I do think it probably
 03:14PM **24** makes sense to serve those, and it sounds like there would be
 03:14PM **25** no real issue with respect to responding to those.

03:14PM **1** Like I said, I mean, the idea behind pushing this
 03:14PM **2** back a little bit is just to get out in front of the briefing
 03:14PM **3** or, I suppose, let the briefing get out in front of us and
 03:14PM **4** then that might just ease some of these or assuage some of
 03:14PM **5** these concerns here.
 03:14PM **6** MR. RICHTER: If I can just say one more thing? I
 03:14PM **7** think defendants' intent, though, is to provide -- I guess
 03:14PM **8** answer interrogatories to the extent that they can, but to
 03:15PM **9** provide written objections to the requests for production but
 03:15PM **10** not actually -- I don't think they intend to produce any
 03:15PM **11** documents until after the infringement contentions are served.
 03:15PM **12** And I don't think that's the spirit of the rules, particularly
 03:15PM **13** with respect to the U.S. entity. Nothing is preventing the
 03:15PM **14** U.S. entity from producing documents that are sufficient to
 03:15PM **15** show how they sell the products, who they sell the products
 03:15PM **16** to, you know, so that we can conduct some of this discovery
 03:15PM **17** and not wait. It doesn't seem to make sense to wait.
 03:15PM **18** As Your Honor noted, even if the U.S. entity ends up
 03:15PM **19** succeeding on a motion to transfer venue, and it is a Delaware
 03:15PM **20** company so it should be hard, but the California case should
 03:15PM **21** pick up, right, we don't need to wait until that case settles
 03:15PM **22** for the convenience of the venue convenience motion. So I
 03:15PM **23** don't know if it's appropriate to withhold document
 03:15PM **24** production, you know, until after infringement contentions are
 03:15PM **25** served, which now could be probably August or September.

03:16PM **1** MS. KELLER: Your Honor, I will say, it would be
 03:16PM **2** atypical for a party to produce more than just its core
 03:16PM **3** technical documents prior to that core technical document
 03:16PM **4** production for the reason that we would produce core technical
 03:16PM **5** documents which will include anything that they might need to
 03:16PM **6** produce wholesome infringement contentions. That will then
 03:16PM **7** give us some guidance in going to search as to how they're
 03:16PM **8** actually contending these products infringe so that we don't
 03:16PM **9** have to do multiple searches.
 03:16PM **10** We are obviously going to look at their RFPs. We'll
 03:16PM **11** start to engage in the process of interviewing custodians,
 03:16PM **12** collecting documents, providing our initial disclosures. But
 03:16PM **13** there will be a deadline in the scheduling order for document
 03:16PM **14** production. We don't intend to wait until the last day to
 03:16PM **15** produce everything. We'll do it on a rolling basis. But
 03:16PM **16** until those infringement contentions are disclosed and we have
 03:16PM **17** a better feel, I think that's the purpose of that core
 03:16PM **18** technical production exchange.
 03:16PM **19** And I will say that it is -- despite what people may
 03:16PM **20** say about whether you have to respond to written discovery or
 03:16PM **21** not, it would be very atypical in Delaware to start producing
 03:17PM **22** documents before those initial exchanges.
 03:17PM **23** THE COURT: I mean, I guess my view on this is, maybe
 03:17PM **24** it's a little bit of a -- not entirely material issue in the
 03:17PM **25** end, I mean, I think we're talking about pushing everything

03:17PM **1** back two months. So if the initial part of the schedule holds
 03:17PM **2** firm, there will be a production of the defendants' production
 03:17PM **3** of core technical documents here would be, you know, roughly,
 03:17PM **4** by the end of August or so. So I'm not -- I don't think -- I
 03:17PM **5** don't think in the grand scheme of things it's going to slow
 03:17PM **6** the case down in a material way.
 03:17PM **7** MS. KELLER: And if there are discreet documents they
 03:17PM **8** think would help move the ball for purposes of 408 issues,
 03:17PM **9** then they should feel free to reach out and ask us if there is
 03:17PM **10** something specific. But just general discovery, that's kind
 03:17PM **11** of our position.
 03:17PM **12** THE COURT: Okay.
 03:17PM **13** MR. RICHTER: We have done that, Your Honor. I mean,
 03:17PM **14** we did engage in some negotiation at the outset of the case
 03:18PM **15** and we asked -- and, actually, the parties agreed that, you
 03:18PM **16** know, Sonos would provide its sort of licensing rate and
 03:18PM **17** Linkplay would provide its sales information and help the
 03:18PM **18** parties come together, and Linkplay decided not to produce any
 03:18PM **19** sales information. So that's at least one category of
 03:18PM **20** documents I think that, you know, we'd still ask for and it
 03:18PM **21** should be produced during this litigation. And it probably
 03:18PM **22** doesn't relate, maybe, to the core technical as much.
 03:18PM **23** We, you know, Sonos is a little bit atypical in the
 03:18PM **24** sense that it spends a lot of effort up front putting into its
 03:18PM **25** complaint an identification of the accused products.

03:18PM **1** Basically infringement contentions, we have claim charts, and
 03:18PM **2** a detailed description of how Linkplay infringes those
 03:18PM **3** patents. From the public information, of course. We have no
 03:18PM **4** access to their confidential documents. So we're a little bit
 03:18PM **5** ahead of the game in that respect, Your Honor, and that's why
 03:18PM **6** this delay is a little bit concerning to us, is that they are
 03:19PM **7** attempting to just push off everything just later and later
 03:19PM **8** every time, you know, we try to confer with them on that.
 03:19PM **9** THE COURT: Why don't we do this just to -- sorry,
 03:19PM **10** Ms. Keller -- just to -- I think this -- I think this might
 03:19PM **11** make sense to just wrap into your broader discussions as --
 03:19PM **12** because I think you can even bake into the scheduling order
 03:19PM **13** something that could address this because if there is a
 03:19PM **14** situation of certain sales data or a rate or damages
 03:19PM **15** information, you know, maybe there's a way to short circuit
 03:19PM **16** that to get everybody what they need and that certainly can
 03:19PM **17** facilitate settlement as well.
 03:19PM **18** So maybe include that as part of your thought process
 03:19PM **19** in terms of the proposed schedule and then I'll take a look at
 03:19PM **20** it. That might also help me because it's tough to, you know,
 03:19PM **21** adjudicate any potential discovery disputes in a vacuum a
 03:20PM **22** little bit, a step at a time. Maybe you all can confer as to
 03:20PM **23** what really -- what's -- from the plaintiff's side, what you
 03:20PM **24** really want up front and what the defendant is agreeing it
 03:20PM **25** will or won't produce at an earlier stage. So that might be a

03:20PM **1** little bit more of an efficient way to handle that.
 03:20PM **2** MS. KELLER: That makes sense, Your Honor. Some of
 03:20PM **3** our judges do have that provision in their scheduling orders,
 03:20PM **4** where the party -- the plaintiff will provide its damages
 03:20PM **5** theory in part of these exchanges and we would provide accused
 03:20PM **6** sales, sales for accused products and other damages
 03:20PM **7** information currently.
 03:20PM **8** THE COURT: Okay. That makes sense. That's a great
 03:20PM **9** idea.
 03:20PM **10** Okay. So I'll issue an order that just orders you
 03:20PM **11** all to confer on that. I'll look for the -- a new amended or
 03:20PM **12** a joint proposed scheduling order in about a week. And then
 03:20PM **13** if I need another conference, we'll schedule one to discuss
 03:20PM **14** finalizing the schedule. I'm sorry to push this off but I
 03:21PM **15** think it makes sense as opposed to me deciding all of these
 03:21PM **16** dates right now for you all to really think through the issues
 03:21PM **17** first. I think it will probably help streamline some of this
 03:21PM **18** and avoid some unnecessary disputes.
 03:21PM **19** Okay. I'm trying to think if there's anything else I
 03:21PM **20** wanted to raise while I have you on this video call. I don't
 03:21PM **21** think so.
 03:21PM **22** I was going to say, there's some aspects of the
 03:21PM **23** Markman hearing I'd probably want to raise, but I think we can
 03:21PM **24** have a conference as we get closer to that point in time so
 03:21PM **25** that everybody can get on the same page as to expectations for

03:21PM **1** a Markman hearing.
 03:21PM **2** Oh, I guess one thing to maybe consider, maybe just
 03:21PM **3** tuck this away, you know, obviously it's helpful if there is a
 03:22PM **4** Markman hearing and there are disputed claim terms, that
 03:22PM **5** really the focus is on the ones that really matter and really
 03:22PM **6** can move the needle. You know, I know some of the judges out
 03:22PM **7** your way when faced with, you know, the task of claim
 03:22PM **8** construction involving, you know, 20 disputed claims will punt
 03:22PM **9** the whole thing to summary judgment which, you know, I
 03:22PM **10** certainly understand. I think the idea is, you know, if there
 03:22PM **11** are three, four, five that really are going to move the
 03:22PM **12** needle, especially on the settlement front, those are the ones
 03:22PM **13** that I think we should all be concerned about up front.
 03:22PM **14** Oh, I know what I was going to mention, mediation,
 03:22PM **15** settlement discussions. I will say one thing I do take from
 03:22PM **16** the Western District of Pennsylvania and try to suggest to the
 03:22PM **17** parties in Delaware, is the Western District of Pennsylvania,
 03:22PM **18** we have a mandatory mediation program with a private mediator,
 03:23PM **19** the parties choose the private mediator. That typically would
 03:23PM **20** occur within, I think, 60 days after a decision on claim
 03:23PM **21** construction. It seems to work well out here. I think at
 03:23PM **22** that point in time a lot of the issues really become
 03:23PM **23** crystallized as to whether or not the case can settle.
 03:23PM **24** I wanted to throw that out there. There doesn't have
 03:23PM **25** to be a decision on that today. And in fact, what I'll

03:23PM **1** probably do is at some point I'll look at the schedule when we
 03:23PM **2** land on it and issue an order for another just touch base
 03:23PM **3** status conference and it might make sense to talk about that
 03:23PM **4** issue at that subsequent status conference.
 03:23PM **5** But I did want to throw out that idea. I don't know
 03:23PM **6** if counsel has experience with the timing of mediations and
 03:23PM **7** what makes sense. Certainly, every case is different. But as
 03:23PM **8** a general matter, I like our approach that we use in the
 03:23PM **9** Western District of Pennsylvania.
 03:24PM **10** MS. KELLER: Your Honor, I agree with Your Honor's
 03:24PM **11** approach. When we used to have our magistrate judges here do
 03:24PM **12** mediation, typically most parties request that we wait to do
 03:24PM **13** it until after the Markman decision. It's kind of a point in
 03:24PM **14** the case where you've had some fact discovery, you've had some
 03:24PM **15** depositions, you've also got your Markman decision. So I do
 03:24PM **16** think that makes sense.
 03:24PM **17** THE COURT: Okay. Thank you. I don't know if the
 03:24PM **18** plaintiff had a position on that?
 03:24PM **19** MR. RICHTER: That makes sense to us as well, Your
 03:24PM **20** Honor. Yeah, we'll certainly consider that. We're open to
 03:24PM **21** mediation at any time, including after Markman.
 03:24PM **22** THE COURT: Okay. Well, I'll circle back then to
 03:24PM **23** that, maybe at a subsequent status conference, and then
 03:24PM **24** hopefully we can build that into the schedule later on.
 03:24PM **25** Okay. I think that's it on my end. Let me know if

03:24PM **1** I've missed anything. If anyone else wants to raise anything
 03:24PM **2** while I have you on this call, please feel free to do so.
 03:24PM **3** Anything else from either side? From Sonos, anything else?
 03:25PM **4** MR. BOYEA: Not from me, Your Honor.
 03:25PM **5** MR. RICHTER: Nothing further. Thank you for your
 03:25PM **6** time, Your Honor.
 03:25PM **7** THE COURT: Thank you. From the defendants?
 03:25PM **8** MS. KELLER: Nothing for Linkplay. Thank you, Your
 03:25PM **9** Honor.
 03:25PM **10** THE COURT: Okay. All right. Thank you, everyone.
 03:25PM **11** Great. I appreciate it. Nice seeing everyone. Nice meeting
 03:25PM **12** everyone on the videoconference. I'll get an order out. I'll
 03:25PM **13** look to hear from you with the amended joint proposed
 03:25PM **14** scheduling order. Thank you.
 03:25PM **15** MS. KELLER: Sounds good. Thank you, Your Honor.
16 (Proceedings concluded at 3:25 p.m.)
17 - - -
18
19

20 C E R T I F I C A T E

21 I, SHARON SIATKOWSKI, RMR, CRR, CRC, CRI, certify
 that the foregoing is a correct transcript from the record of
22 proceedings in the above-entitled matter.

23 \s\ Sharon Siatkowski 05/23/2024
 SHARON SIATKOWSKI, RMR, CRR, CRC, CRI Date of Certification
24 Official Court Reporter

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