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11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15
16 INARI MEDICAL, INC.,
17 Plaintiff,
18 v.
19 IMPERATIVE CARE, INC.,
20 Defendant.

Civil Action No. 5:24-cv-03117-EKL-SVKx

**IMPERATIVE CARE, INC.’S
PROPOSED SCHEDULE FOR CLAIM
CONSTRUCTION AND NARROWING
OF ASSERTED PATENTS AND
CLAIMS**

Hon. Eumi K. Lee

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27 Inari-2023
Imperative Care, Inc. v. Inari Medical, Inc.
28 IPR2025-00728

Pursuant to the Court’s Minute Entry (Dkt. 111), the parties have exchanged proposals “to amend the case schedule through claim construction” and “for narrowing patents and claims for trial.” The parties could not agree on any schedule. Imperative Care proposes a comprehensive schedule that addresses claim construction and claim narrowing. *See* Attachment A (blue highlighting relates to claim narrowing). As to claim construction, that proposal provides the parties with sufficient time to address the new claim terms of the recently added 12-’333 patent while still accelerating the typical schedule under the Patent Local Rules. As to claim narrowing, the proposal requires the parties to narrow the asserted claims *and* prior art references¹ before this Court construes any claim terms. As explained below, the Court should adopt Imperative Care’s proposal because it is reasonable and consistent with well-established practice in this District.

In contrast, Inari proposes keeping the existing claim-construction hearing on July 24 and cramming disclosures for the new 12-’333 patent into that existing schedule. That is unreasonable because the extremely short deadlines do not provide the parties sufficient time to address the new claim terms. Inari also proposes that it need not narrow any of its **202** asserted patent claims until after the close of fact discovery. As discussed below, this Court should reject Inari’s proposal as contrary to the well-established practice in this District.

A. Imperative Care’s Claim Construction Schedule Reasonably Accounts for the Newly Added 12-’333 Patent

The parties’ competing proposals for claim construction are set forth below:

Event	Inari’s Proposal	Imperative Care’s Proposal
Imperative Care to serve invalidity contentions for 12-’333 Patent	June 13, 2025	June 13, 2025
Imperative Care to identify terms from the 12-’333 Patent for construction	June 5, 2025	June 27, 2025
Parties to exchange constructions and evidence for the 12-’333	June 10, 2025	July 11, 2025
Parties to file updated Joint Statement and exchange expert reports	June 12, 2025	July 18, 2025
Close of claim construction discovery	June 19, 2025	Aug. 1, 2025

¹ Though the Court did not order the parties to address narrowing the number of prior art references, such narrowing customarily follows the narrowing of asserted claims.

1	Inari's opening claim construction brief	June 26, 2025	Aug. 8, 2025
2	Imperative Care's responsive claim construction brief	July 10, 2025	Aug. 22, 2025
3	Inari's reply claim construction brief	July 17, 2025	Aug. 29, 2025
4	Claim construction tutorial	Eliminate	Sept. 4, 2025 (or Court's convenience)
5	Claim construction hearing	July 24, 2025	Sept. 18, 2025 (or Court's convenience)

6 One point is clear: Inari unrealistically compresses the schedule to keep the July 24th
7 hearing date. As a result, Inari requires Imperative Care to identify new terms for
8 construction on June 5, one day after filing this brief and before serving invalidity contentions
9 (which the parties agree should happen on June 13). It also requires the parties to propose
10 constructions for the new terms and identify supporting evidence on June 10, just three
11 business days after identifying the terms for construction. It also requires the parties to
12 submit the Joint Claim Construction and Prehearing Statement *and* claim-construction expert
13 reports two days later, on June 12. Clearly, the parties cannot reasonably prepare an effective
14 Joint Statement and expert reports in two days. Inari's proposal to cram claim construction
15 procedures that normally take 60 days under the Patent Local Rules *into 5 business days* is
16 unrealistic and would prevent Imperative Care from meaningfully addressing the issues raised
17 by the newly added 12-'333 Patent. *See* Patent L.R. 4-1 – 4-3. Inari even eliminates the
18 Court's claim-construction tutorial to squeeze the proceedings into its proposed schedule.

19 In contrast, Imperative Care's proposal adheres to the Patent Local Rules by starting
20 with invalidity contentions, which Imperative Care agrees to serve in nine days. Imperative
21 Care also proposes to shorten many claim-construction deadlines in the Patent Local Rules
22 while still allowing enough time for the parties and Court to complete each task. For
23 example, Imperative Care shortens the time between the invalidity contentions and Joint
24 Statement from 60 days to 35 days. Even though Imperative Care proposed dates faster than
25 those in the rules, Inari rejected all of them. But, as shown above, a July 24 hearing date is
26 unrealistic now that Inari has expanded the case by filing its third amended complaint on May
27 29 (Dkt. 112). *See* Dkt. 98 at 9 (citing cases extending claim construction schedule in view of
28 newly added patent). Therefore, the Court should adopt Imperative Care's realistic schedule.

1 **B. Imperative Care’s Proposed Schedule for Narrowing Asserted Claims and Prior**
2 **Art Encourages Efficiency and Aligns with Northern District Precedent**

3 Imperative Care proposes that the parties narrow the asserted patents and claims, and
4 prior art references, *before* the Court or parties expend significant resources construing
5 limitations that may never be in any claim asserted at trial. In contrast, Inari wants no
6 narrowing to occur until after the close of fact discovery. Inari’s proposal would be
7 inefficient and a waste of resources by all involved.

8 As this Court knows, it has discretion to limit the number of asserted claims for the
9 sake of judicial economy and management of the court’s docket. *In re Katz Interactive Call*
10 *Processing Patent Litig.*, 639 F.3d 1303, 1313 (Fed. Cir. 2011). “In determining whether to
11 require parties to limit the number of claims asserted, courts look to the number of patents
12 and claims at issue and the feasibility of trying the claims to a jury.” *Thought, Inc. v. Oracle*
13 *Corp.*, No. 12-CV-05601-WHO, 2013 WL 5587559, at *2 (N.D. Cal. Oct. 10, 2013).

14 With the addition of the 12-’333 Patent, Inari now asserts 202 claims from 11 patents.
15 As the Court acknowledged during the May 28 hearing, trying so many claims to a jury is not
16 feasible and will cause jurors’ eyes to “glaze over.” Further, construing claims from 202
17 patents is inefficient because over 90% of those claims will never make it to trial.

18 Imperative Care’s proposal (*see* blue highlighting in Attachment A) will reduce the
19 burden on the Court and the parties during claim construction by focusing the claim
20 construction disputes on a narrower set of claims. Moreover, unlike Inari’s proposal, the
21 *timing* of Imperative Care’s proposal, and the *number* of asserted claims and prior art
22 references subject to narrowing, aligns with precedent in this District and is consistent with
23 the “weight of authority” from other districts. *See Universal Elecs. Inc. v. Roku Inc.*, No.
24 SACV 18-1580 JVS (ADx), 2019 WL 1878351 (C.D. Cal. Mar. 14, 2019) (“the weight of
25 authority holds that claim limitation is proper prior to claim construction, particularly where
26 defendants have already served invalidity contentions”).

27 Courts in this District routinely order parties to reduce the number of asserted claims
28 and prior art references *before* claim construction to avoid extraneous claim construction

1 disputes. In addition, Imperative Care proposes reducing the claims/prior art to *numbers* that
2 align with these cases. *See, e.g., Microchip Tech. Inc. v. Nuvoton Tech. Corp. Am.*, No. 19-
3 CV-01690-SI, 2019 WL 4888676, at *2 (N.D. Cal. Oct. 3, 2019) (reduction from 109 to 40
4 asserted claims before preliminary exchange of claim constructions; reduction to 40 prior art
5 references two weeks after claim selection); *Tech. Licensing Corp. v. Blackmagic Design Pty*
6 *Ltd.*, No. 13-CV-05184-SBA(MEJ), 2015 WL 307256 at *5 (N.D. Cal. Jan. 22, 2015)
7 (reduction from 65 to 18 claims and 10 prior art references before claim construction);
8 *Thought, Inc. v. Oracle Corp.*, No. 12-CV-05601-WHO, 2013 WL 5587559, at *4 (N.D. Cal.
9 Oct. 10, 2013) (reduction from 102 to 32 asserted claims before claim construction; reduction
10 to 50 prior art reference two weeks after claim selection); *Adobe Sys. v. Wowza Media Sys.*
11 *LLC*, 2013 WL 9541126 (N.D. Cal. May 6, 2013) (reduction to 20 representative claims
12 before claim construction); *Rambus, Inc. v. LSI Corp.*, No. C 10-05446, 2012 WL 13070209,
13 at *1 (N.D. Cal. Dec. 28, 2012) (reduction from 81 to 35 claims after CMC). Other district
14 courts do the same. *See Universal Elecs*, 2019 WL 1878351 at *2 (reduction from 106 claims
15 to 25 claims before claim construction; reduction to 35 prior art references after claim
16 selection); *Memory Integrity, LLC v. Intel Corp.*, 2015 WL 6659674 (D. Or. Oct. 30, 2015)
17 (reduction from 118 claims to 15 claims); *Masimo Corp. v. Philips Elecs. N. Am. Corp.*, 918
18 F.Supp.2d 277 (D. Del. 2013) (reduction from 95 to 30 claims); *Oasis Rsch., LLC v. Adrive,*
19 *LLC*, 2011 WL 7272473 (E.D. Tex. Sept. 13, 2011) (reduction from 121 to 32 claims).

20 Courts in this District also require a *second* reduction after the claim construction
21 order to ensure efficient fact and expert discovery, streamline dispositive motions, and focus
22 the issues for trial. *See, e.g., Microchip Tech.*, 2019 WL 4888676 at *2 (further reducing
23 claims from 40 to 20 two weeks after order and prior art references from 40 to 20 after claim
24 selection); *Thought*, 2013 WL 5587559 at *4 (further reducing claims from 32 to 16 four
25 weeks after order and prior art references from 50 to 25 after claim selection); *Rambus*, 2012
26 WL 13070209, at *2 (further reducing claims from 35 to 20 after order to “significantly
27 reduce the financial burden on the parties and streamline the litigation to help manage the
28 Court's docket”). Imperative Care’s proposal aligns with this precedent. Imperative Care

1 proposes that Inari *and* Imperative Care reduce their asserted claims and prior art references
2 before claim construction and complete a second reduction two weeks after the claim
3 construction order.

4 Imperative Care's proposal is appropriate for several additional reasons. First,
5 Imperative Care has already produced its technical Symphony documents, so Inari has the
6 necessary discovery to identify its infringement claims. *See Thought*, 2013 WL 5587559 at
7 *3 (plaintiff did not show further discovery needed to understand operation of accused
8 devices). Second, because Imperative Care has filed eight IPR petitions and served its
9 invalidity contentions for ten of Inari's eleven asserted patents (and will serve contentions for
10 the 12-'333 patent by June 13), Inari can select claims knowing Imperative Care's invalidity
11 case. *See Universal Elecs.*, 2019 WL 1878351, at *2 (recognizing no post-*Katz* case has
12 denied a motion to narrow the asserted claims after invalidity contentions, but before claim
13 construction). Third, many of Inari's asserted claims are largely duplicative making its
14 selection simpler. *See Thought*, 2013 WL 5587559 at *3 (N.D. Cal. Oct. 10, 2013) (finding
15 "vast majority" of asserted claims directed to same subject matter); *Memory Integrity*, 2015
16 WL 6659674 at *3 (limiting claims where patents shared specifications, shared at least one
17 common inventor, and detailed mechanisms for the same functionality); *cf. Microchip Tech.*,
18 2019 WL 4888676 at *3 (defendant does not have the burden to show that the asserted claims
19 are duplicative to justify claim narrowing).

20 Lastly, Inari's proposal to limit Imperative Care to *only* four prior art references (or
21 combinations of references) *per patent* would prejudice Imperative Care. Notably, Inari
22 includes no corresponding proposal to similarly limit its asserted claims *per patent*. This is
23 significant because Inari has asserted over 20 claims per patent for several of the patents.
24 Obviously, if Inari continues to assert many of those claims, Imperative Care may require
25 more than four prior art references to show invalidity, particularly when the dependent claims
26 may introduce additional components of the aspiration system.

27 For these reasons, Imperative Care respectfully requests that the Court adopt
28 Imperative Care's proposed schedule in Attachment A.

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Respectfully Submitted,
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