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14 **ATTORNEYS FOR PLAINTIFF**
15 **INARI MEDICAL, INC.**

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN JOSE DIVISION

19 INARI MEDICAL, INC.,
20 Plaintiff,
21 v.
22 IMPERATIVE CARE, INC.,
23 Defendant.

Case No. 5:24-cv-03117-EKL

**INARI'S REPORT REGARDING
CLAIM CONSTRUCTION SCHEDULE
AND CLAIM NARROWING**

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25
26
27 Inari-2022
Imperative Care, Inc. v. Inari Medical, Inc.

28 IPR2025-00728

I. INTRODUCTION

As directed by the Court (Dkt. 111), Plaintiff Inari Medical, Inc. (“Inari”) submits here its proposals as to the claim construction schedule and claim-narrowing. Inari provided its proposals to Defendant Imperative Care, Inc. (“Truvic”) on May 29 and 30, 2025. Truvic responded with its counterproposals on the afternoon of June 2, 2025. The parties have not been able to reach agreement on these issues.

II. INARI’S CLAIM CONSTRUCTION SCHEDULING PROPOSAL

The adjustments needed to the schedule to accommodate the 12-’333 Patent are modest. The limited work to be done for this new patent can readily be accommodated without needing to disturb the Court’s busy docket by re-setting the long-scheduled Markman hearing. Inari’s proposed revised Markman schedule, shown in the table at top of page 3 below, is designed to preserve the current scheduled hearing date of July 24th, which is still over seven weeks away.

There are many reasons that Inari’s proposed schedule is fair and just. First, Truvic has had ample time to anticipate and prepare for the addition of the 12-’333 Patent here. Inari notified Truvic that it sought to add this patent to the case almost four months ago and served its infringement contentions for this patent a full three months ago. Not only that, but—when it became clear that operation of the Local Patent Rules would mean that the parties had proposed only nine out of ten possible claim terms for construction—Inari offered Truvic the opportunity to choose an *extra* claim term not permitted by the rules for the 12-’333 Patent. *See* Tessar Dec. Exh. A (email dated 4/22/25, titled “Inari offer regarding claim construction for 12-’333 patent”).¹ Truvic declined Inari’s offer on the basis that it opposed the motion to amend (*id.*), even though—circularly—Truvic’s opposition was primarily based on the prejudice that Truvic would supposedly suffer by not getting to address the 12-’333 Patent during claim construction. Rather than taking up the Court’s time with its opposition to the motion to amend, Truvic should have been (and actually seemingly was) preparing its invalidity and claim construction positions for the 12-’333 Patent, so that the Court would not have to change the hearing date now.

¹ Inari did so even though this would have given Truvic a substantive advantage not contemplated by the Local Patent Rules, permitting Truvic to pick more claim terms than Inari.

1 The second reason that Inari’s proposal, which preserves the current hearing date, should
2 be adopted is that much of the claim terminology of the 12-’333 Patent overlaps with terms in
3 other patents, particularly in the same family. For example, two of the nine terms upon which
4 the parties *already* seek construction (and for which they have exchanged constructions,
5 disclosed intrinsic and extrinsic evidence, provided expert reports, and completed discovery) are
6 found in the 12-’333 Patent. *See* Dkt. 107-1 (Joint Claim Construction Chart), at nn. 1, 4, 9
7 (identifying “filament” and “proximal” as claims for construction found in the 12-’333 Patent,
8 as well as others; also citing 12-’333 Patent throughout list of cited intrinsic evidence).

9 Third, and relatedly, this means that the amount of work to be done to accommodate the
10 addition of the 12-’333 Patent is not nearly so much as Truvic claims. If Truvic wants to add a
11 tenth term to the case from the 12-’333 Patent, Inari does not object to it now doing so.² Truvic’s
12 latest communications on the subject even hint that it already knows what those terms are, even
13 if it has not yet told Inari. *See* Tessar Dec. Exh. B (5/30/25 email from Truvic). And the early
14 claim construction activities for a new term or two will not take much time to complete, given
15 the extensive work already performed and the small number (one or two) of new terms that will
16 now be part of the case. The parties already know the intrinsic and extrinsic evidence well by
17 this point. Moreover, Truvic did not provide an expert declaration for many of the terms in
18 dispute previously and, even when it provided expert testimony, neither party deposed the others’
19 experts, so it can hardly be seriously credited that extensive time is needed for discovery.

20 Finally, Inari notes that its primary goal in this case has been and remains to obtain an
21 injunction to prevent harm that Inari is and will suffer in the marketplace. If the Court denies
22 Inari’s motion for preliminary injunction, Inari intends to request an expedited trial. Should that
23 be necessary, it will be important to keep the case on pace to resolve Markman disputes now.

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26 ² The ten-term limit of the Local Patent Rules does not vary depending on how many patents are
27 asserted. Inari has offered that, if Truvic wants to propose more than one additional term from
28 the 12-’333 Patent, it will not object to Truvic swapping out one of the terms that Truvic
previously included. It hardly seems necessary to expand the limit of ten total terms for this case,
however.

INARI'S PROPOSED REVISED CLAIM CONSTRUCTION DATES FOR 12-'333 PATENT		
Event	Current Date	Proposed Date³
Truvic to identify 12-'333 term(s) for construction	None	June 5, 2025
Parties exchange constructions for additional term(s) and evidence	None	June 10, 2025
Parties submit updated joint claim construction chart	None	June 12, 2025
Deadline for completion of additional discovery for new term(s) [limited or no discovery anticipated]	None	June 19, 2025
Inari's opening brief due	June 12, 2025	June 26, 2025
Truvic's responsive brief due	June 26, 2025	July 10, 2025
Inari's reply brief due	July 3, 2025	July 17, 2025
Markman tutorial	July 10, 2025 at 1:30 pm PT	n/a ⁴
Claim construction hearing	July 24 at 1:30 pm PT	

III. INARI'S CLAIM-NARROWING PROPOSAL

Truvic has copied and is infringing many of Inari's patented innovations, even beyond those that the Court already learned about for the preliminary injunction motion. That means that there are many patent claims asserted here, as is often the case in the face of such widespread copying between competitors.

Inari acknowledges and agrees that it cannot and will not go to trial on anywhere near the number of claims that are currently asserted. It is only fair, however, to allow Inari full fact discovery before it is forced to narrow the number of claims at issue. This is consistent with the approach commonly taken in this District and beyond. *E.g., Apple Inc. v. Samsung Elecs. Co.*, No. 5:12-cv-630-LHK Dkt. 471, p. 2 (N.D. Cal. Apr. 24, 2013) (requiring parties to initially limit number of patents ten days before close of fact discovery and further limit number of patents after expert discovery); *Huawei Techs. Co. v. Samsung Elecs. Co.*, No. 3:16-cv-2787-WHO Dkt.

³ Inari accepts Truvic's offer to provide invalidity contentions on June 13, 2025.

⁴ If acceptable to the Court, Inari will forgo a second tutorial to maintain the hearing date.

1 143, p. 2 (N.D. Cal June 2, 2017) (ordering initial reduction of patents one week after fact
 2 discovery cutoff and additional reduction one week after close of expert discovery); *Adobe*
 3 *Systems Inc. v. Wowza Media Systems LLC*, No. 11-cv-2243, 2013 WL 9541126, at *1 (N.D.
 4 Cal. May 6, 2013) (finding plaintiff in position to narrow claims after completion of discovery);
 5 *see also Fleming v. Cobra Elecs. Corp.*, No. 1:12-cv-392, at *3 (D. Idaho Apr. 24, 2013)
 6 (denying motion to reduce asserted claims when discovery still in early stages). Courts are clear
 7 that patent owners are entitled to full discovery before having to narrow their cases. *Jawbone*
 8 *Innovations, LLC v. Meta Platforms, Inc.*, No. 6:23-cv-158, 2023 WL 8856049, at *2 (W.D. Tex.
 9 Dec. 20, 2023) (“Numerous courts ... have noted that limiting claims is not appropriate before
 10 the patentee receives discovery and invalidity contentions.”) (collecting cases); *Carl Zeiss AG v.*
 11 *Nikon Corp.*, No. 2:17-cv-3221, 2018 WL 1858183, at *1-*2 (C.D. Cal. Mar. 1, 2018) (denying
 12 motion to limit claims before discovery was complete).

13 Inari’s proposed schedule addresses the concerns described above while still being
 14 flexible enough to spare the Court and the parties the need to address a large volume of claims
 15 during expert discovery or dispositive motions. Moreover, Inari’s proposed schedule self-adjusts
 16 and accelerates if the Court eventually decides to provide the parties with an expedited trial date
 17 (and correspondingly fast close to fact discovery). Specifically, Inari proposes:

INARI’S PROPOSED CLAIM-NARROWING APPROACH	
Event	Date
Inari will narrow to 40 total asserted claims	1 week after the close of fact discovery
Truvic will narrow to no more than 4 prior art references (or combinations of references) <i>per patent</i>	1 week later
Inari will narrow to 10 total asserted claims	2 weeks before the pretrial conference (assuming all dispositive motions resolved by then)
Truvic will narrow to no more than 2 prior art references (or combinations of references) <i>per patent</i>	1 week later

1 Truvic’s proposal forces unfairly fast narrowing. Truvic would have this Court force Inari
2 to narrow its claims by a dramatic amount—**80%** (from ~200 claims to 40 claims)—and that it
3 do so **right now**, just days after the Court ruled that Inari could add the 12-’333 Patent to the
4 case, and while Truvic is far, far from substantial completion of its document production. Indeed,
5 Truvic has been promising to produce many types and categories documents for many months,
6 but has not yet done so. Truvic’s artificially fast proposal serves only to force Inari to make
7 narrowing decisions without the full information that fact discovery will provide.

8 Truvic will undoubtedly argue that its proposal, with its extraordinarily fast narrowing,
9 will create efficiencies. But this ignores the realities of this case. For instance, Truvic makes no
10 representation (nor could it) that the Court will not have to construe ten terms should Inari narrow
11 now. Moreover, most of the claims currently proposed for construction appear in many patents
12 and claims, so it is doubtful that narrowing now will reduce the number of terms to be construed,
13 particularly as Truvic is meanwhile asking to **add** more claims for construction. This is
14 significantly different than cases that order narrowing of claims before the Markman hearing
15 because, in those situations, it reduces burden on the Court.

16 Truvic cannot even say that requiring narrowing now will reduce the burden of fact
17 discovery; the full scope of Truvic’s accused Symphony device will be at issue **either way**. Not
18 only that, Truvic’s proposal is unnecessarily complex—it requires a second round of narrowing
19 before the close of fact discovery (taking Inari down to just 20 claims)—and then a third round
20 before trial. This makes little sense. Truvic’s proposal merely deprives Inari of its ability to
21 make informed choices with full information, without saving the parties or the Court any effort.

22 As to its corresponding burden to narrow its invalidity case, Truvic’s proposal offers the
23 Court nothing, not tying the number of prior art references to either the number of patents still
24 in suit **or** meaningfully reducing to a number of references significantly less than the total number
25 of references that Truvic has identified its contentions.

26 Where Inari’s proposal is fair and adjusts based on the timing of key case events when
27 narrowing makes good sense, Truvic’s proposal forces too much narrowing too quickly—and
28 without saving the Court or parties any work. In short, it should be rejected in full.

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