

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

YONDR, INC.

Plaintiff,

v.

BE SMARTER, LLC and  
JAMES GUERRA.,

Defendants.

Case No. 1:24-cv-01326-ADA

Judge Alan D Albright

DEMAND FOR JURY TRIAL

BE SMARTER, LLC and  
JAMES GUERRA.,

Counterclaim Plaintiffs.

v.

YONDR, INC.

Counterclaim Defendant,

**SCHEDULING ORDER**

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, the Court **ORDERS** that the following schedule will govern deadlines up to and including the trial of this matter:

Deadline	Item
3/7/2025 Completed	Plaintiff serves preliminary <sup>1</sup> infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (i.e., the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
3/19/2025 Completed	The Parties shall file a motion to enter an agreed Scheduling Order. If the parties cannot agree, the parties shall submit a separate Joint Motion for entry of Scheduling Order briefly setting forth their respective positions on items where they cannot agree. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
4/14/2025 Completed	Defendants serve preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendants contend are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendants contend are directed to ineligible subject matter under section 101. Defendants shall also produce: (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).
4/28/2025 Completed	Parties exchange claim terms for construction.
5/12/2025 Completed	Parties exchange proposed claim constructions.

<sup>1</sup> The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and that the amendment is based on material identified after those preliminary contentions were served and should do so seasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

Deadline	Item
5/19/2025 Completed	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. <sup>2</sup> With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
5/27/2025 Completed	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
6/6/2025 Completed	Defendants file Opening claim construction brief, including any arguments that any claim terms are indefinite.
6/27/2025 Completed	Plaintiff files Responsive claim construction brief.
7/11/2025 Completed	Defendants file Reply claim construction brief.  Parties to jointly email the law clerks to confirm their Markman date and to notify if any venue or jurisdictional motions remain unripe for resolution.
7/25/2025 Completed	Plaintiff files Sur-Reply claim construction brief.
7/28/2025 Completed	Parties submit Joint Claim Construction Statement and email the law clerks an editable copy.  <i>See</i> General Issues Note #9 regarding providing copies of the briefing to the technical advisor (if appointed).
8/1/25 Completed	Parties submit optional technical tutorials to the Court and technical adviser (if appointed).

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<sup>2</sup> Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.

Deadline	Item
09/22/2025 <sup>3</sup>	<b>Markman Hearing at 9:30 a.m. via Zoom.</b>
09/23/2025	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
10/31/2025	Deadline to add parties.
11/14/2025	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.
01/9/2026	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
03/20/2026	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court to arrange a teleconference with the Court to resolve the disputed issues.
04/17/2026	Close of Fact Discovery
04/24/2026	Opening Expert Reports.
05/22/2026	Rebuttal Expert Reports.

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<sup>3</sup> All deadline hereafter follow the original *Markman* hearing date and do not change if the Court delays the *Markman* hearing.

Deadline	Item
06/12/2026	Close of Expert Discovery.
06/18/2026	Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If it helps the parties determine these limits, the parties are encouraged to contact the Court for an estimate of the amount of trial time anticipated per side. <b>The parties shall file a Joint Report within 5 business days</b> regarding the results of the meet and confer.
06/26/2026	Dispositive motion deadline and <i>Daubert</i> motion deadline.  <i>See</i> OGP Note #9 regarding providing copies to the Court and technical advisor (if appointed).  Deadline for parties desiring to consent to trial before the magistrate judge to submit Form AO 85, “Notice, Consent, And Reference Of A Civil Action To A Magistrate Judge,” available at <a href="https://www.uscourts.gov/forms/civil-forms/notice-consent-and-reference-civil-action-magistrate-judge">https://www.uscourts.gov/forms/civil-forms/notice-consent-and-reference-civil-action-magistrate-judge</a> .
07/10/2026	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, deposition designations).
07/24/2026	Serve objections to pretrial disclosures/rebuttal disclosures.
07/31/2026	Serve objections to rebuttal disclosures; file motions <i>in limine</i> .

<b>Deadline</b>	<b>Item</b>
08/7/2026	<p>File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i>.</p> <p>From this date onwards, the parties are obligated to notify the Court of any changes to the asserted patents or claims. Such notification shall be filed on the docket within seven (7) days of the change and shall include a complete listing of all asserted patents and claims. If a change to the asserted patents or claims requires leave of court (for example, if a party is moving for leave to assert additional claims), notification shall not be required until the Court grants leave, at which point the notification must be filed within seven (7) days.</p>
08/14/2026	<p>File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Kristie Davis at <a href="mailto:kmdaviscsr@yahoo.com">kmdaviscsr@yahoo.com</a></p> <p>Deadline to file replies to motions <i>in limine</i>.</p>
08/21/2026	<p>Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i>.</p>
07/24/2026	<p>Parties to jointly email the Court's law clerk to confirm their pretrial conference and trial dates.</p>
08/26/2026	<p>File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i>.</p>
08/31/2026	<p><b>Final Pretrial Conference.</b> Held in person unless otherwise requested</p>
09/21/2026	<p><b>Jury Selection/ Trial</b></p>

SIGNED this 7th day of August, 2025.

  
ALAN D ALBRIGHT  
UNITED STATES DISTRICT JUDGE