

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GRANITE VEHICLE VENTURES LLC,

Plaintiff,

v.

TESLA, INC.,

Defendant.

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CIVIL ACTION NO. 2:24-CV-01007-JRG

DISCOVERY ORDER

After a review of the pleaded claims and defenses in this action, in furtherance of the management of the Court’s docket under Federal Rule of Civil Procedure 16, and after receiving the input of the parties to this action, it is **ORDERED AS FOLLOWS**:

1. Initial Disclosures. In lieu of the disclosures required by Federal Rule of Civil Procedure 26(a)(1), each party shall disclose to every other party the following information:

- (a) the correct names of the parties to the lawsuit;
- (b) the name, address, and telephone number of any potential parties;
- (c) the legal theories and, in general, the factual bases of the disclosing party’s claims or defenses (the disclosing party need not marshal all evidence that may be offered at trial);
- (d) the name, address, and telephone number of persons having knowledge of relevant facts, a brief statement of each identified person’s connection with the case, and a brief, fair summary of the substance of the information known by any such person;
- (e) any indemnity and insuring agreements under which any person or entity carrying on an insurance business may be liable to satisfy part or all of a judgment entered

in this action or to indemnify or reimburse for payments made to satisfy the judgment;

- (f) any settlement agreements relevant to the subject matter of this action; and
- (g) any statement of any party to the litigation.

2. Disclosure of Expert Testimony.¹ A party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703 or 705, and:

- (a) if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony, provide the disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) and Local Rule CV-26; and
- (b) for all other such witnesses, provide the disclosure required by Federal Rule of Civil Procedure 26(a)(2)(C).

3. Additional Disclosures. Without awaiting a discovery request,² each party will make the following disclosures to every other party:

- (a) provide the disclosures required by the Patent Rules for the Eastern District of Texas with the following modifications to P.R. 3-1 and P.R. 3-3:
 - i. If a party claiming patent infringement asserts that a claim element is a software limitation, the party need not comply with P.R. 3-1 for those claim elements until 30 days after source code for each Accused Instrumentality

¹ All expert reports should be written such that the report is organized with discrete paragraph numbers.

² The Court anticipates that this disclosure requirement will obviate the need for requests for production.

is produced by the opposing party. Thereafter, the party claiming patent infringement shall identify, on an element-by-element basis for each asserted claim, what source code of each Accused Instrumentality allegedly satisfies the software limitations of the asserted claim elements.

ii. If a party claiming patent infringement exercises the provisions of Paragraph 3(a)(i) of this Discovery Order, the party opposing a claim of patent infringement may serve, not later than 30 days after receipt of a Paragraph 3(a)(i) disclosure, supplemental “Invalidity Contentions” that amend only those claim elements identified as software limitations by the party claiming patent infringement.

(b) produce or permit the inspection of all documents, electronically stored information, and tangible things in the possession, custody, or control of the party that are relevant to the pleaded claims or defenses involved in this action, except to the extent these disclosures are affected by the time limits set forth in the Patent Rules for the Eastern District of Texas; and

(c) provide a complete computation of any category of damages claimed by any party to the action, and produce or permit the inspection of documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered, except that the disclosure of the computation of damages may be deferred until the time for Expert Disclosures if a party will rely on a damages expert.

4. Protective Orders. The Court will enter the parties’ Agreed Protective Order.

5. Discovery Limitations. The discovery in this cause is limited to the disclosures described in Paragraphs 1-3 together with:

- a. 25 interrogatories per side;
- b. 40 requests for admissions per side. In addition, the parties may serve a reasonable number of requests for admission to establish the authenticity of documents. Requests for admission directed to document authentication must be clearly identified as such and must be served separately from any requests for admission that are subject to the limitations above. The parties shall work in good faith to agree on a stipulation as to the authenticity of their own documents to avoid the service of large numbers of authenticity requests;
- c. the depositions of party witnesses under Rule 30(b)(1) or Rule 30(b)(6). Each side shall be permitted up to 70 hours of deposition time for such witnesses. Absent a showing of good cause, each deposition will be limited to no more than 7 hours pursuant to Rule 30(d)(1). A deposition of a party or party-affiliated witness will count for at least a minimum of 2 hours even if the deposition does not exceed 2 hours. In-person depositions of witnesses shall be taken in the city where the witness resides, has a principal place of employment, or by agreement of the parties; virtual deposition (*e.g.*, Zoom) shall be taken during regular business hours of the witness;
- d. 60 hours of nonparty depositions per side; and
- e. up to 4 expert witnesses per side. Each testifying expert may be deposed for up to 7 hours (on the record) for each substantive issue (*e.g.*, infringement, validity, or damages) on which the expert has offered an opinion and report. For example, an expert providing reports regarding infringement and validity may be deposed for 14 hours. Experts, however, shall not be deposed for more than 7 hours in one day unless otherwise agreed to

by the parties. The foregoing provisions regarding expert discovery shall not apply to claim construction discovery.

- f. “Side” means a party or a group of parties with a common interest.
- g. Any party may later move to modify these limitations for good cause.

6. Privileged Information. There is no duty to disclose privileged documents or information. However, the parties are directed to meet and confer concerning privileged documents or information after the Status Conference. By the deadline set in the Docket Control Order, the parties shall exchange privilege logs identifying the documents or information and the basis for any disputed claim of privilege in a manner that, without revealing information itself privileged or protected, will enable the other parties to assess the applicability of the privilege or protection. Any party may move the Court for an order compelling the production of any documents or information identified on any other party’s privilege log. If such a motion is made, the party asserting privilege shall respond to the motion within the time period provided by Local Rule CV-7. The party asserting privilege shall then file with the Court within 30 days of the filing of the motion to compel any proof in the form of declarations or affidavits to support their assertions of privilege, along with the documents over which privilege is asserted for *in camera* inspection. However, if the party asserting privilege seeks an *in camera* review by the Court, such party shall first obtain leave from the Court prior to delivery of documents to the Court.

7. Signature. The disclosures required by this Order shall be made in writing and signed by the party or counsel and shall constitute a certification that, to the best of the signer’s knowledge, information and belief, such disclosure is complete and correct as of the time it is made. If feasible, counsel shall meet to exchange disclosures required by this Order;

otherwise, such disclosures shall be served as provided by Federal Rule of Civil Procedure

5. The parties shall promptly file a notice with the Court that the disclosures required under this Order have taken place.

- 8. Duty to Supplement.** After disclosure is made pursuant to this Order, each party is under a duty to supplement or correct its disclosures **immediately** if the party obtains information on the basis of which it knows that the information disclosed was either incomplete or incorrect when made, or is no longer complete or true.

9. Discovery Disputes.

- (a) Except in cases involving claims of privilege, any party entitled to receive disclosures (“Requesting Party”) may, after the deadline for making disclosures, serve upon a party required to make disclosures (“Responding Party”) a written statement, in letter form or otherwise, of any reason why the Requesting Party believes that the Responding Party’s disclosures are insufficient. The written statement shall list, by category, the items the Requesting Party contends should be produced. The parties shall promptly meet and confer. If the parties are unable to resolve their dispute, then the Responding Party shall, within 14 days after service of the written statement upon it, serve upon the Requesting Party a written statement, in letter form or otherwise, which identifies (1) the requested items that will be disclosed, if any, and (2) the reasons why any requested items will not be disclosed. The Requesting Party may thereafter file a motion to compel.
- (b) An opposed discovery related motion, or any response thereto, shall not exceed 7 pages. Attachments to a discovery related motion, or a response thereto, shall not

exceed 5 pages. No further briefing is allowed absent a request or order from the Court.

- (c) Prior to filing any discovery related motion, the parties must fully comply with the substantive and procedural conference requirements of Local Rule CV-7(h) and (i). Within 72 hours of the Court setting any discovery motion for a hearing, each party's lead attorney (*see* Local Rule CV-11(a)) and local counsel shall meet and confer in person or by telephone, without the involvement or participation of other attorneys, in an effort to resolve the dispute without Court intervention.
- (d) Counsel shall promptly notify the Court of the results of that meeting by filing a joint report of no more than two pages. Unless excused by the Court, each party's lead attorney shall attend any discovery motion hearing set by the Court (though the lead attorney is not required to argue the motion).
- (e) Any change to a party's lead attorney designation must be accomplished by motion and order.
- (f) Counsel are directed to contact the chambers of the undersigned for any "hot-line" disputes before contacting the Discovery Hotline provided by Local Rule CV-26(e). If the undersigned is not available, the parties shall proceed in accordance with Local Rule CV-26(e).

10. No Excuses. A party is not excused from the requirements of this Discovery Order because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. Absent court order to the contrary, a party is not excused from disclosure because there are pending motions to dismiss, to remand or to change venue.

11. Filings. Only upon request from chambers shall counsel submit to the court courtesy copies of any filings.

12. Proposed Stipulations by the Parties Regarding Discovery.

- a. Service by Electronic Mail. The Parties will make every effort to serve all letters, discovery requests, and other documents (except in the case of document required to be filed with the Court electronically, the service of which is governed by the Local Rules, or documents that are too voluminous for email) electronically, by e-mail or through ECF, with service by email achieved by emailing the relevant materials to the email group address designated by a party, or if no such group is designated, to email address for all counsel of record for the party.
- b. Production of Materials Obtained Via Third-Party Subpoena. A party who serves a subpoena in this matter on a third party requesting the production of documents or a deposition shall immediately provide a copy to the other party. A party who receives documents from a third party pursuant to subpoena will reproduce those documents to the other party within 3 business days. Where reproduction of documents within 3 business days is not possible, the party who received the documents will provide prompt notice to the other party and will work in good faith to resolve the issue on a case-by-case basis. The parties agree to cooperate in good faith with respect to the scheduling of any third-party depositions and, to the extent practicable, will schedule any such third-party deposition no less than five (5) days after the production of any documents received from that third-party to the other side.

- c. Service of Deposition Notices. The parties agree that employees of a party may be served with deposition notices through that party's counsel, rather than being served by a subpoena.
- d. Expert Discovery. The parties agree that the protections provided in FRCP 26(b)(4)(B) and (C) will apply equally to expert declarations as they do to expert reports, including both drafts of declarations and communications related to declarations. Pursuant to FRCP 26(b)(4), draft expert reports, notes, outlines, and any other writings leading up to an expert's final report(s), including any such drafts, notes or outlines and other writings prepared in other cases, are exempt from discovery. In addition, all conversations and communications between counsel and an expert and all materials generated by an expert with respect to his or her work on this action are exempt from discovery unless relied upon by the expert in forming an opinion that is presented in a served report or in deposition or trial testimony in this case. If an expert produces a report, the expert must produce his or her final report and all materials on which he or she relied, unless previously produced in this case.
- e. Production of ESI. The parties shall meet and confer to consider a separate order regarding the production of electronically stored data, including emails, modeled on this District's Model Order Regarding E-Discovery in Patent Cases. Paragraph 3 of this Discovery Order does not apply to email discovery.
- f. Order Focusing Patent Claims and Prior Art to Reduce Costs. The parties shall meet and confer to consider a separate order to narrow the asserted claims and prior art,


modeled on this District's Model Order Focusing Patent Claims and Prior Art to Reduce Costs.

- g. Privilege Logs. Except as provided under Local Patent Rule 3-7, no party to the litigation is required to log on their privilege logs any protected documents or communications that: (a) came into existence on or after the filing date of the Complaint, December 6, 2024; (b) work product prepared for or by Litigation Counsel ("Litigation Counsel" is defined as counsel of record in this litigation or counsel consulted for this litigation); or (c) communications occurring between a party and its Litigation Counsel. The parties may modify the foregoing provisions of this paragraph either by agreement or by order of the Court for good cause shown after compliance with the applicable procedures for resolution of discovery disputes.
- h. Pursuant to Fed. R. Evid. 502(d), inadvertent production of materials covered by the attorney-client privilege or work product protection is not a waiver in this or any other federal or state proceeding. In case of inadvertent production, at the producing party's request, the receiving party shall immediately return or destroy the inadvertently produced materials. The producing party will provide a privilege log in accordance with Paragraph 6.
- i. Representative Products: The parties shall discuss in good faith the feasibility of a stipulation as to representative products as discovery progresses in order to streamline the case for purposes of trial.

13. Standing Orders. The parties and counsel are charged with notice of and are required to fully comply with each of the Standing Orders of this Court. Such are posted on the Court's

website at <http://www.txed.uscourts.gov/?q=court-annexed-mediation-plan>. The substance of some such orders may be included expressly within this Discovery Order, while others (including the Court's Standing Order Regarding Protection of Proprietary and/or Confidential Information to Be Presented to the Court During Motion and Trial Practice) are incorporated herein by reference. All such standing orders shall be binding on the parties and counsel, regardless of whether they are expressly included herein or made a part hereof by reference.

So ORDERED and SIGNED this 14th day of April, 2025.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE