

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

**SHERMAN DIVISION**

**DATE:** 8/13/2020

**DISTRICT JUDGE**

**Amos L. Mazzant, III**

**COURT REPORTER: Jan Mason**

**COURTROOM DEPUTY: Keary Conrad**

Innovation Sciences, LLC	4:18-CV-474
v.	
Amazon Com, Inc., et al	

<b>ATTORNEYS FOR PLAINTIFF</b>	<b>ATTORNEYS FOR DEFENDANT</b>
Don Jackson, Greg Krauss, Jay Berquist, Michael Young, Roger Sanders	Deron Dacus, Dave Hadden, Ravi Ranganath, Todd Gregorian, Saina Shamilov

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

<b>TIME:</b>	<b>MINUTES: Final Pretrial Conference</b>
2:00 p.m.	Court in session. Court notes appearances.
2:03 p.m.	Court provides instructions to attorneys regarding COVID-19 protocol that the Court will follow and the protocol that the Court asks the Parties to follow being aware of the COVID-19. Court advises parties that temperatures will be taken at the door of the jurors each day. Court advises that Counsel need to wear masks unless questioning the witnesses. Face shields will be provided to the jurors that are selected. Court will allow no more than 5 at the table and encourages social distancing practices. Counsel should stay at the podium. Court staff will wipe down the witness stand but attorneys are encouraged to wipe down the podium after each use before the next counsel takes the podium. Court will provide jury lunches each day after they are selected.
2:10 p.m.	Counsel Jackson discusses demonstratives to be used on easels. Court will allow counsel to approach those easels.
2:10 p.m.	Counsel Dacus mentions one elderly witness that can not travel because of COVID. Itamar Simonson will appear by video conferencing system. Witness will call in to the conference call system.
2:13 p.m.	Counsel Jackson mentions third party witness - David Lyon that may possibly also need to appear by video. Documents should be provided to any video witness prior to their testimony because of the inability to show documents to the witness.
2:17 p.m.	Counsel discuss voir dire. Parties agree to 1 ½ hours for voir dire. Court will allow each side to make a 5 minute opening statement of the context of the case.

2:19 p.m.	Each counsel will be given a seating chart with generic information about each juror. Court requests the Parties to use numbers only. Court will provide each side with the questionnaires on Wednesday by 5pm the parties will pick them up.
2:21 p.m.	Court advises Parties that the whole panel is used. Counsel will strike through the whole panel.
2:22 p.m.	Court will show the patent video to the panel during the qualification process.
2:22 p.m.	Jury will arrive at staggered time and an 8 person jury will be seated.
2:23 p.m.	Court will allow 45 minutes for opening statement.
2:24 p.m.	Parties discuss a timed trial. Defense counsel anticipates being done by Tuesday, September 1 <sup>st</sup> . Plaintiff's counsel suggest the case can be done in 6. Court will contemplate timed trial.
2:31 p.m.	Court reviews questions from jury process with Counsel. Court reviews exhibit process. Court conditionally admits all exhibits that are not objected to. However, the exhibit must be utilized with a witness before it is considered fully admitted.
2:34 p.m.	Court discusses the one and done witness procedure. Parties discuss 30b6 witnesses and expert testimony.
2:37 p.m.	Court advises the Parties they will have a trial room downstairs to house their documents, trial prep materials, and witnesses, as needed.
2:38 p.m.	Court will sign the pretrial order. Counsel Jackson mentions a few items the parties cannot agree with: (Dkt. #743 - PTO). Parties discuss the following disagreements: page 8 subheading b and page 10 listings of the parties; page 12-13 regarding parties disclosure of demonstratives in advance. Court notes demonstratives are not exhibits and any drawings made on those exhibits are not sent back with the jury. Spontaneous drawings on demonstratives the parties agree to; any planned drawings should be disclosed to both sides prior to. Page 15 reading and playing of deposition excerpts and chronological playing of excerpts. The Court advises that if reasonable and in context the Court prefers that it be both side designations.
2:50 p.m.	Counsel Dacus mentions sealing the courtroom. Court asks that the Parties ask that the record be sealed and if there are spectators the Court will ask them to leave the courtroom. Then parties should just remember to unseal. Counsel Jackson mentions opening, voir dire, and closing arguments and confidentiality. Court does not view that as evidence. If there is something highly confidential that needs to be addressed parties are encouraged to meet and confer about those issues prior to trial.
2:53 p.m.	Counsel Jackson mentions undisputed facts that Innovation did not stipulate to regarding prior litigation between Amazon and Innovation's predecessor. Plaintiff believes facts are irrelevant and do not belong in PTO. Court agrees that MIL's should take care of.

2:54 p.m.	Counsel Shamilov mentions dispute in Pretrial Order on page 8 regarding amended lists throughout trial. Parties agree that any amended lists will be provided by Wednesday and unless good cause is shown no other exhibits will be added during the course of the trial.	
2:57 p.m.	Court begins with Defendant's MIL (Dkt. #734) Defendant's MIL #1: Granted. Defendant's MIL #2: Denied. Defendant's MIL #3: Denied. Defendant's MIL #4: Denied. Defendant's MIL #5: Granted. Defendant's MIL #6: Granted.	
3:15 p.m.	Court continues with Plaintiff's MIL (Dkt. #735) Plaintiff's MIL #1: Denied. Plaintiff's MIL #2: Denied. Plaintiff's MIL #3: Granted. Plaintiff's MIL #4: GIP/DIP. Plaintiff's MIL #5: Granted as mutual. Plaintiff's MIL #6: Denied. Plaintiff's MIL #7: Granted. Plaintiff's MIL #8: Granted as to disparagement or place of residence; Denied as to commentary regarding nationality . Plaintiff's MIL #9: Withdrawn. Plaintiff's MIL #10: Granted.	
	Court continues with Plaintiff's MIL (Dkt. #735) Plaintiff's MIL #11: Granted. Plaintiff's MIL #12: Granted. Plaintiff's MIL #13: Granted. Plaintiff's MIL #14: Denied. Plaintiff's counsel will submit documents. Plaintiff's MIL #15: Denied as moot. Plaintiff's MIL #16: Granted. Plaintiff's MIL #17: Granted. Plaintiff's MIL #18: Granted. Plaintiff's MIL #19: Granted. Plaintiff's MIL #20: Granted. As to Plaintiff's MIL #20 - Plaintiff's counsel may file a letter brief regarding additional limitations and Defendants will respond within 2 business days so the Court can resolve prior to the eve of trial.	
4:38 p.m.	Plaintiff's MIL #21: Granted. Plaintiff's MIL #22: Granted. Plaintiff's MIL #23: Granted. Plaintiff's MIL #24: Granted. Plaintiff's MIL #25: Granted. Plaintiff's MIL #26: Granted as modified. Plaintiff's MIL #27: Under advisement Plaintiff's MIL #28: Under advisement Plaintiff's MIL #29: Denied.	
4:58 p.m.	Parties discuss notebooks for jurors.	
4:59 p.m.	Court discusses bench conference. Counsel should wear masks and try to limit bench conferences as much as possible.	
5:00 p.m.	Parties discuss exhibits. Exhibit objections will be taken up at trial unless there are objections to exhibits to be used in opening statements. If there are objections to exhibits for opening statements the Parties will bring those to the Court's attention prior to opening statements after they have met and conferred regarding those exhibits.	

5:00 p.m.	Counsel Shamilov mentions issues regarding instructions to the jury. Dispute on page 8 Amazon is going to drop.
5:02 p.m.	Court hears from Counsel Jackson regarding timed trial. Parties are encouraged to consult and if can agree they should submit their agreement to the Court and if not schedule a telephone conference. Parties discuss minimum jurors. Court plans to seat eight.
5:04 p.m.	Counsel Shamilov discusses issue of dismissal. Court hears argument from counsel regarding dismissal. Parties argue with or without prejudice. Court advises Plaintiff they cannot reassert that patent against Amazon. Plaintiff orally moves to dismiss the claims 443 patent with prejudice. The Court grants the dismissal. Parties discuss the entities that do not exist. Parties will meet and confer to see if they can resolve the issues of the entities.
5:11 p.m.	Court adjourned.

DAVID O'TOOLE, CLERK

BY: Kearny Conrad  
Courtroom Deputy Clerk