

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

<p>UAB PULSETTO,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>ELECTROCORE, INC.,</p> <p style="text-align: center;">Defendant.</p>
<p>ELECTROCORE, INC.,</p> <p style="text-align: center;">Counterclaim Plaintiff,</p> <p>v.</p> <p>UAB PULSETTO and JOHN DOES 1-10,</p> <p style="text-align: center;">Counterclaim Defendant.</p>

Case No.: 25-cv-10036 (EP) (SDA)

ORDER

THIS MATTER comes before the Court via letter dated December 23, 2025 from Plaintiff/Counterclaim Defendant UAB Pulsetto (“Pulsetto”) raising a discovery dispute (ECF No. 50); and the Court having received a responsive letter dated December 31, 2025 from Defendant/Counterclaim Plaintiff electroCore, Inc. (“electroCore”) (ECF No. 52); and

WHEREAS, on September 9, 2025, this Court entered an Initial Pretrial Scheduling Order (ECF No. 27) in this matter adopting the discovery schedule jointly proposed by the parties, which included, in relevant part, the following deadlines:

DEADLINE	EVENT
September 17, 2025	Deadline for electroCore to serve Disclosure of Asserted Claims and Infringement Contentions

November 3, 2025	Deadline for both parties to serve (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions
November 12, 2025	Deadline to Amend Infringement Contentions
November 17, 2025	Deadline for electroCore's to serve responses to invalidity contentions
December 5, 2025	Deadline to Amend (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions

WHEREAS, on October 31, 2025, the Court received a letter from Pulsetto (ECF No. 41) which sought the following extensions:

DEADLINE	EVENT
November 24, 2025	Deadline for Pulsetto to serve (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions
December 3, 2025	Deadline for electroCore to Amend Infringement Contentions
December 22, 2025	Deadline for electroCore to serve responses to invalidity contentions
December 26, 2025	Deadline for Pulsetto to Amend (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions

WHEREAS, on November 4, 2025, the Court granted Pulsetto's request to extend the deadline to serve its (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions until November 24, 2025, but did not address the remaining three extensions proposed by the parties, instead directing them to submit a joint proposed amended scheduling order reflecting the new deadlines (ECF No. 41).

WHEREAS, on November 26, 2025, the Court entered an Amended Scheduling Order (ECF No. 44) whereby it granted the following extensions:

DEADLINE	EVENT ¹
November 24, 2025	Deadline for <i>both parties</i> to serve (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions
December 3, 2025	Deadline for <i>both parties</i> to Amend Infringement Contentions
December 22, 2025	Deadline for electroCore to serve responses to Pulsetto's invalidity contentions
December 26, 2025	Deadline for <i>both parties</i> to Amend (i) Non-Infringement Contentions and Responses, and (ii) Invalidity Contentions

WHEREAS, on December 18, 2025, the Court received a letter from electroCore (ECF No. 46) advising the Court that the parties had agreed – on their own accord – to (i) extend electroCore's deadline to serve its Amended Infringement Contentions until December 10, 2025; and (ii) extend electroCore's deadline to respond to Pulsetto's Invalidity Contentions until January 12, 2026.² The letter also notified the Court of a discovery dispute involving electroCore's Amended Infringement Contentions (apparently served one day late, on December 11, 2025), but did not provide any additional details. Pulsetto asked that the deadline for its Amended Non-Infringement and Invalidity contentions be held in abeyance until the Court resolved the dispute.

WHEREAS, on December 22, 2025, the Court entered a text order (i) retroactively extending electroCore's deadline to serve its Amended Infringement Contentions until December 10, 2025; and (ii) extending electroCore's deadline to respond to Pulsetto's Invalidity Contentions until January 12, 2026 (ECF No. 47).

WHEREAS, on December 23, 2025, Pulsetto submitted a letter to the Court describing the discovery dispute between the parties. (ECF No. 50). According to Pulsetto, when electroCore

¹ Although Pulsetto's October 31, 2025 letter sought one-sided extensions (as reflected in the chart above), the proposed Amended Scheduling Order submitted by the parties at ECF No. 42 did not contain such one-sided language, and that proposed schedule was adopted by the Court *in toto*.

² The parties are not at liberty to agree among themselves to extend Court deadlines, as the Court reminded them in its text order of December 22, 2025. (ECF No. 47).

served its Amended Infringement Contentions on December 11, 2025, it improperly included 62 newly asserted claims (only some of which were accompanied by infringement contentions). Pulsetto argued that electroCore was not permitted under Local Patent R. 3.7 to amend its Disclosure of Asserted Claims absent a formal application to the Court and that the Scheduling Orders were only permitted Amended Infringement Contentions, not Asserted Claims. It argued that adding 62 new claims to the already 95 asserted claims in this matter would be an unreasonable burden and that electroCore failed to establish good cause for the amendment.³

WHEREAS, on December 31, 2025, electroCore filed a responsive letter. (ECF No. 52). In that letter, electroCore first explained that it made a number of errors ministerial errors in its Amended Infringement Contentions and was, in fact, only seeking to add 16 additional claims (rather than 62). electroCore primarily argued that it was permitted to amend its Asserted Claims pursuant to the Court’s various Scheduling Orders that authorized the amendment of Infringement Contentions. It explained that Local Patent R. 3.1 jointly references “Disclosure of Asserted Claims and Infringement Contentions” and it would be non-sensical if the Court’s Order permitting Amended Infringement Contentions was limited to only sub-section (c) of Local Patent R. 3.1, but did not permit amendment under any other sub-section. electroCore further claimed that it had good cause to add the new claims because they were not discovered until Pulsetto first produced its technical documents along with its Non-Infringement and Invalidity Contentions on November 24, 2025. Finally, electroCore argued that the assertion of 16 new claims is not prejudicial when viewed against the 550 pages of Invalidity Contentions and claim charts served by Pulsetto.

³ Pulsetto primarily argued that electroCore cannot demonstrate good cause because the “new contentions are based almost exclusively on information that electroCore could and should have had its disposal well before Pulsetto timely served its noninfringement contentions.” (ECF No. 50 at 4).

WHEREAS, the dispute boils down to the following question: Does the Court’s Order allowing the amendment of “Infringement Contentions” implicitly include “Asserted Claims”? The Court answers this question in the affirmative for several reasons:

1. Local Patent Rule 3.1 does not make a distinction between the Disclosure of Asserted Claims and Infringement Contentions. Rather, it refers to them singularly, in quotation marks, as a “Disclosure of Asserted Claims and Infringement Claims” and then proceeds to list, in 8 sub-sections, the information that must be included in this Disclosure. To allow an amendment pursuant to only one of these sub-sections while barring an amendment under any other sub-section would be unduly limiting and is not consistent with the parties’ agreed-upon language, which did not contain such a limitation.
2. Local Patent R. 3.7 provides that “[a]mendment of any contentions, disclosures, or other documents exchanged pursuant to these Local Patent Rules may be made only by order of the Court upon a timely application and showing of good cause.” (emphasis in original). It does not separately reference “Asserted Claims” which suggests that such term is encompassed by the reference to “contentions” – consistent with the language in Local Patent R. 3.1.
3. Courts in this District do not draw a distinction between “Disclosure of Asserted Claims” and “Infringement Contentions.” See e.g. *Novartis Pharm., Corp. v. Wockhardt USA LLC*, No. 21-cv-3967, 2013 WL 4732296, at *2 (D.N.J. Sept. 3, 2013) (affirming Magistrate Judge’s Order permitting plaintiff to amend its disclosure of asserted claims while applying the good cause standard to amend contentions); *TFH Publications, Inc. v. Doskocil Mfg. Co., Inc.*, 705 F.Supp.2d 361,

365-7 (D.N.J. 2010) (granting motion to amend patent infringement contentions despite the fact that deadline for “disclosures” had passed and even though the infringement contentions contained 18 additional claims); *Int’l Devel., LLC v. Simon Nicholas Richmond and Adventive Ideas, LLC*, No. 09-cv-249, 2010 WL 3946714, at *1, 4 (D.N.J. October 4, 2010) (permitting plaintiff to amend its “infringement contentions” even though the amendment contained new claims that were inadvertently omitted from the initial disclosures).

WHEREAS, while a formal motion is generally required under Local Patent R. 3.7, the parties in this matter specifically agreed among themselves to allow for Amended Infringement Contentions (and hence, Asserted Claims) without the need to file a formal application with the Court, which agreement was subsequently incorporated into Court Orders (ECF Nos. 27, 41, 44, 47) thereby satisfying the requirements of Local Patent R. 3.7.

NOW THEREFORE, for good cause shown, **IT IS, on this 5th day of February, 2026**, hereby **ORDERED THAT**:

1. Pulsetto’s request that the Court strike those portions of electroCore’s Amended Contentions referencing claims that were not asserted in its initial Disclosure of Asserted Claims and Infringement Contentions is **DENIED**.

2. electroCore shall serve a corrected copy of its Amended Infringement Contentions, eliminating the errors mentioned on pages 2-3 of its letter at ECF No. 52 and adding 16 asserted claims (as opposed to 62) by **February 10, 2026**.

3. By **February 13, 2026**, the parties shall meet and confer and submit a proposed updated scheduling order to the Court addressing the remaining deadlines in this case.

4. This Order resolves the dispute raised in ECF No. 50.

s/ Stacey D. Adams
Hon. Stacey D. Adams
United States Magistrate Judge