

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN LED PHOTOGRAPHIC  
LIGHTING DEVICES AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-804**

**ORDER NO. 10:     SETTING PROCEDURAL SCHEDULE**

(November 28, 2011)

On November 21, 2011, the parties submitted a joint proposed procedural schedule pursuant to Order Nos. 2 and 6. The parties are in agreement regarding the proposed schedule with the exception as to whether a *Markman* hearing in the investigation would be appropriate. Respondents Fotodiox, Inc.; Yuyao Fotodiox Photo Equipment, Co., Ltd.; Yuyao Lishuai Photo-Facility Co., Ltd.; Yuyao Lily Collection Co., Ltd.; Prompter People, Inc.; FloLight, LLC; Advanced Business Computer Services, LLC, d/b/a Cool Light USA; Ikan Corporation, Fuzhou F&V Photographic Equipment Co., Ltd.; Shantou Nanguang Photographic Equipment Co., Ltd.; and Elation Lighting, Inc. (collectively "Respondents") requested a *Markman* hearing for February 24, 2012. Respondents argue that a *Markman* hearing would reduce the number of issues presented in expert discovery, for summary determination and for the hearing. Complainant Litepanels, Inc. and the Commission Investigative Staff oppose holding a *Markman* hearing as both argue that it would create an undue burden on the other parties and the ALJ.

Having considered the parties' arguments and the ALJ's docket and schedule, the ALJ finds that a *Markman* hearing is not practical. While the number of patents and asserted claims could certainly benefit from a *Markman* hearing, that alone does not warrant holding the hearing especially since it is not clear that the technology is so complex that holding an early tutorial and

*Markman* hearing would provide some benefit. In addition, under the ALJ's current schedule, he has at least one hearing every single month from February through August of next year, with some months having two hearings.<sup>1</sup> Even if it were possible to hold a *Markman* hearing, it is highly unlikely that the ALJ will be able to construe the claims in a timely manner given his docket and responsibilities in other investigations. Therefore, the ALJ declines Respondents' request for a *Markman* hearing.

The investigation will hereby be controlled by the procedural schedule attached hereto as Attachment A.

**SO ORDERED.**



Theodore R. Essex  
Administrative Law Judge

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<sup>1</sup> Indeed, the ALJ is in hearing for Inv. No. 337-TA-762 on February 24, 2012 (the date proposed by Respondents).

# **ATTACHMENT A**

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

Before the Honorable Theodore R. Essex  
Administrative Law Judge



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In the Matter of )  
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CERTAIN LED PHOTOGRAPHIC LIGHTING )  
DEVICES AND COMPONENTS THEREOF )  
\_\_\_\_\_ )

Investigation No.  
337-TA-804

**JOINT PROPOSED PROCEDURAL SCHEDULE**

Pursuant to the Ground Rules, Order No. 2 and Order No. 6, Complainants Litepanels Inc. and Litepanels, Ltd. (collectively "Litepanels"), and Respondents Fotodiox Inc.; Yuyao Fotodiox Photo Equipment, Co., Ltd.; Yuyao Lishuai Photo-Facility Co., Ltd.; Yuyao Lily Collection Co., Ltd.; Prompter People, Inc.; FloLight, LLC; Advanced Business Computer Services, LLC, D/B/A Cool Lights USA; Ikan Corporation; Fuzhou F&V Photographic Equipment Co., Ltd; Shantou Nanguang Photographic Equipment Co., Ltd., and Elation Lighting, Inc. (collectively "Respondents"), and the Office of Unfair Import Investigations ("Staff") hereby submit the following Joint Proposed Procedural Schedule in the above captioned Investigation:

Description	Proposed Date
First settlement conference	Thu, Dec 1, 2011
Submission of first settlement conference joint report	Tue, Dec 6, 2011
Private parties exchange list of patent claim terms for construction	Fri, Dec 9, 2011
File notice of prior art	Fri, Jan 20, 2012
Deadline for private parties to meet and confer in an attempt to reconcile or otherwise limit disputed claim terms	Fri, Jan 27, 2012
Private parties submit a joint list showing each party's proposed construction of the disputed claim terms	Tue, Jan 31, 2012

Description	Proposed Date
File identification of expert witnesses, including their expertise and curriculum vitae	Fri, Feb 3, 2012
Second settlement conference	Fri, Feb 3, 2012
Submission of second settlement conference joint report	Mon, Feb 6, 2012
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party	Wed, Feb 8, 2012
Cut-off date for responses to contention interrogatories	Fri, Feb 17, 2012
	
Fact discovery cutoff and completion	Fri, Mar 9, 2012
Deadline for motions to compel discovery	Wed, Mar 14, 2012
Exchange of initial expert reports (identify tests/surveys/data)	Fri, Mar 23, 2012
Exchange of rebuttal expert reports	Fri, Mar 30, 2012
Expert discovery cutoff and completion	Fri, Apr 13, 2012
Deadline for filing summary determination motions	Thu, Apr 19, 2012
Exchange of exhibit lists among the parties	Wed, May 9, 2012
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available -- Complainant(s) and Respondent(s)	Wed, May 16, 2012
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available -- Staff	Thu, May 17, 2012
File Pre-hearing statements and briefs -- Complainant(s) and Respondent(s)	Fri, May 18, 2012
Third settlement conference	Mon, May 21, 2012
File requests for receipt of evidence without a witness	Wed, May 23, 2012
Submission of third settlement conference joint report	Fri, May 25, 2012
File objections to direct exhibits (including witness statements)	Mon, May 28, 2012
Submit and serve rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits available -- all parties	Fri, May 25, 2012
File Pre-hearing statement and brief -- Staff	Fri, May 25, 2012
Deadline for motions <i>in limine</i>	Tue, May 29, 2012
File responses to objections to direct exhibits (including witness statements)	Fri, Jun 1, 2012
File objections to rebuttal exhibits (including witness statements)	Fri, Jun 1, 2012
File high priority objections statement	Mon, Jun 4, 2012
File response to objections to rebuttal exhibits (including witness statements)	Fri, Jun 8, 2012
Submission of declarations justifying confidentiality of exhibits	Fri, Jun 8, 2012

Description	Proposed Date
File responses to high priority objections statement	Mon, Jun 11, 2012
File responses to motions <i>in limine</i>	Mon, Jun 11, 2012
Tutorial on technology (if necessary)	Mon, Jun 18, 2012
Pre-hearing conference at 9 AM in Hearing Room A	Mon, Jun 18, 2012
Hearing	Mon, Jun 18, 2012
Last day of hearing	Fri, Jun 22, 2012
File initial post-hearing briefs, proposed findings of fact and conclusions of law, and final exhibit lists	TBA
File reply post-hearing briefs, objections and rebuttals to proposed findings of fact	TBA

\*The parties disagree as to whether a Markman hearing is necessary. Respondents propose that ALJ hold a Markman hearing, while Complainants and Staff oppose holding a Markman hearing. The parties' position regarding Markman follows:

**Respondents:**

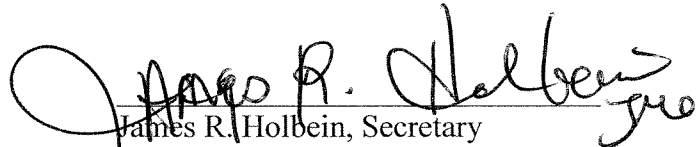
Fotodiox Inc.; Yuyao Fotodiox Photo Equipment, Co., Ltd.; Yuyao Lishuai Photo-Facility Co., Ltd.; Yuyao Lily Collection Co., Ltd.; Prompter People, Inc.; FloLight, LLC; Advanced Business Computer Services, LLC, D/B/A Cool Lights USA; Ikan Corporation; Fuzhou F&V Photographic Equipment Co., Ltd; Shantou Nanguang Photographic Equipment Co., Ltd., and Elation Lighting, Inc. respectfully request that Markman briefing and a one-day hearing to construe claims from the patents at issue be included in the procedural schedule pursuant to Ground Rule 5A. Defined claim terms will reduce the number of issues presented in expert discovery, the number of issues presented for summary determination, and the number of issues presented at hearing.

During negotiations between the parties concerning the subject procedural schedule, it was agreed (with the concurrence of Staff) that (a) the private parties (but not Staff) would exchange lists of patent claim terms for construction and would provide such lists to the Staff; (b) the parties (including Staff) will meet and confer in an attempt to reconcile or otherwise limit disputed claim terms; after which (c) the private parties will submit a joint list showing each party's proposed construction of the disputed claim terms. The procedural schedule submitted for the ALJ's consideration proposes dates for each of these events.

While the parties have not yet exchanged claim terms, given the breadth of the asserted claims and the parties' recognition of the need to exchange and address disputed claim terms, we believe that it is prudent to include a Markman hearing in the procedural schedule. If the parties resolve differences related to disputed claim terms prior to the Markman hearing, the parties can then submit a joint report to the ALJ, obviating the need for further claim construction proceedings.

**PUBLIC CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **ORDER 10** has been served by hand upon, the Commission Investigative Attorney, **Mareesa A. Frederick, Esq.**, and the following parties as indicated on **November 28, 2011**.

  
James R. Holbein, Secretary  
U.S. International Trade Commission  
500 E Street, SW, Room 112  
Washington, DC 20436

**On Behalf of Complainants Lightpanels, Ltd. and Litepanels, Inc.:**

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**On Behalf of Respondents FloLight, LLC, Prompter People, Inc.,  
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Services, LLC (d/b/a Cool Lights USA):**

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**On Behalf of Respondents Fotodiox, Inc., Yuyao Lishuai Photo-  
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Yuyao Lily Collection Co., Ltd.:**

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**PUBLIC CERTIFICATE OF SERVICE- PAGE TWO**

**On Behalf of Respondent Visio Light, Inc.:**

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