

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN COMPUTER FORENSIC
DEVICES AND PRODUCTS
CONTAINING THE SAME

Inv. No. 337-TA-799

ORDER NO. 10: SETTING THE PROCEDURAL SCHEDULE

(September 22, 2011)

On August 24, 2011, the Commission instituted this Investigation and the Notice of Investigation was published in the Federal Register on August 9, 2011. 76 Fed. Reg. 53,695-696 (Aug. 29, 2011). The undersigned set a sixteen-month target date of December 29, 2012 for completion of this Investigation by the Commission in Order No. 2, issued August 29, 2011. Order No. 2 also requested discovery statements from the parties by September 12, 2011. On September 15, 2011, the undersigned advised the parties that the *Markman* order would likely issue on March 16, 2012. On September 21, 2011, the parties submitted a joint revised proposed procedural schedule.

Based on a review of the parties' joint revised proposed procedural schedule, the undersigned hereby adopts the following procedural schedule:

Event	Deadline Date
File identification of expert witnesses for claim construction, including their expertise and their <i>curriculum vitae</i>	November 2, 2011
Initial exchange of claim terms for construction	November 4, 2011
First settlement conference	By November 11, 2011

Event	Deadline Date
Submission of first settlement conference joint report	November 16, 2011
Exchange of initial expert reports on claim construction issues	November 18, 2011
Exchange of rebuttal expert reports on claim construction issues	December 2, 2011
File notice of prior art	December 16, 2011
Meet and confer to discuss and limit number of disputed claim terms	By December 16, 2011
Initial <i>Markman</i> briefs – Complainant and Respondents	December 19, 2011
Initial <i>Markman</i> brief – Staff	December 23, 2011
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party	January 4, 2012
Rebuttal <i>Markman</i> briefs – Complainant and Respondents	January 6, 2012
Submission of joint proposed claim construction chart	January 9, 2012
Rebuttal <i>Markman</i> brief – Staff	January 11, 2012
File identification of non-claim construction expert witnesses, including their expertise and their <i>curriculum vitae</i>	January 13, 2012
Tutorial on technology ¹	January 18, 2012
<i>Markman</i> Hearing	January 19, 2012
Submission of updated joint proposed claim construction chart	January 27, 2012
Attendance at one-day mediation session (in lieu of second settlement conference) ²	By January 27, 2012
Submission of second settlement/mediation	February 3, 2012

¹ Each side's tutorial shall not exceed 1 hour. The tutorial is limited to a general overview of the technology and shall not include any discussion of the asserted patents or the accused products.

² Participation in the mediation program, however, is not cause for delay in the proceedings. Requests for extensions of time in the proceedings will not be considered unless a settlement agreement is reached. For any questions regarding the mediation program, the parties should refer to the Users' Manual for the Commission Pilot Mediation Program, available at <http://www.usitc.gov>.

Event	Deadline Date
joint conference report	
Fact discovery cut-off and completion	March 2, 2012
Deadline for filing summary determination motions	March 2, 2012
Deadline for motions to compel discovery	March 9, 2012
Proposed issuance of claim construction order ³	March 16, 2012
Exchange of initial expert reports	March 23, 2012
Exchange of exhibit lists – Complainant and Respondents	March 30, 2012
Exchange of exhibit list – Staff	April 4, 2012
Exchange of rebuttal expert reports	April 6, 2012
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Complainant and Respondents	April 11, 2012
File requests for receipt of evidence without a witness	April 11, 2012
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Staff	April 12, 2012
File prehearing statements and briefs – Complainant and Respondents	April 12, 2012
Submit and serve rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits available – all parties	April 19, 2012
File prehearing statement and brief – Staff	April 19, 2012
File objections to direct exhibits (including witness statements)	April 19, 2012
Deadline for motions <i>in limine</i> ⁴	April 19, 2012
Expert discovery cutoff and completion	April 20, 2012

³ The undersigned will make every attempt to issue the claim construction order by this date. In this regard, the parties are encouraged to limit the number of claim terms for construction.

⁴ Each side may file no more than ten (10) motions *in limine*.

Event	Deadline Date
File high priority objections statement	April 20, 2012
File objections to rebuttal exhibits (including witness statements)	April 23, 2012
File responses to motions <i>in limine</i>	April 24, 2012
File responses to high priority objections statement	April 24, 2012
Third settlement conference	By April 25, 2012
File responses to objections to direct exhibits (including witness statements)	April 30, 2012
File responses to objections to rebuttal exhibits (including witness statements)	April 30, 2012
Submission of third settlement conference joint report	April 30, 2012
Prehearing conference ⁵	May 2, 2012 at 9:00 a.m.
Trial ⁶	May 3 – 9, 2012
File initial post-trial briefs, proposed findings of fact and conclusions of law, ⁷ and final exhibit lists	June 1, 2012
File reply post-trial briefs, objections and rebuttals to proposed findings of fact and conclusions of law	June 15, 2012
Initial Determination due	August 29, 2012
Target date for completion of Investigation	December 29, 2012

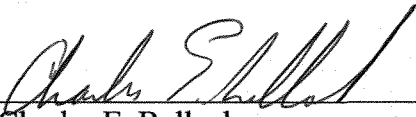
⁵ The parties are directed to meet and confer prior to the prehearing conference in an attempt to resolve any outstanding pre-trial motions, high priority objections, and any other contested issues concerning the trial.

⁶ The parties will be informed of the location of the hearing at a later date.

⁷ The undersigned no longer requires that the parties file proposed findings of fact and conclusions of law. In accordance with Commission Rule 210.40, any party, however, may elect to file proposed findings of fact and conclusions of law.

For the dates set forth above that require a submission or filing, the date set forth is the date that the submission or filing must be at or filed at the Commission (by the close of business) and is not the date that such submission or filing is merely served.

SO ORDERED.




Charles E. Bullock
Acting Chief Administrative Law Judge

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CERTIFICATE OF SERVICE

I, James R. Holbein, hereby certify that the attached **ORDER** has been served upon, **Daniel E. Valencia, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on September 22, **2011**.


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