

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN FLASH MEMORY CHIPS AND  
PRODUCTS CONTAINING THE SAME

Inv. No. 337-TA-664

ORDER NO. 9: INITIAL DETERMINATION EXTENDING THE TARGET DATE BY  
SEVEN MONTHS TO TWENTY-FIVE MONTHS AND RESETTING THE  
PROCEDURAL SCHEDULE

(June 30, 2009)

On June 12, 2009, Complainants Spansion, Inc. and Spansion LLC filed a motion to lift the stay and establish a new schedule for the investigation due to the bankruptcy court's disapproval of the proposed settlement agreement. On June 29, 2009, the parties filed a joint proposed procedural schedule with a proposed target date of January 18, 2011. The undersigned agrees with the parties that an extension of the target date is necessary. Accordingly, the undersigned is hereby extending the target date in this investigation by seven months, or until January 18, 2011. Based on a review of the parties' joint proposed procedural schedule, the procedural schedule is hereby revised as follows:

Event	Deadline Date
Exchange initial expert reports on claim construction issues	September 10, 2009
Exchange rebuttal expert reports on claim construction issues	September 17, 2009
Meet and confer to discuss and limit number of disputed claim terms	September 22, 2009
Initial <i>Markman</i> briefs - Complainants and Respondents (note that Respondents must file a consolidated brief)	October 8, 2009
Initial <i>Markman</i> brief - Staff	October 16, 2009

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Event	Deadline Date
Rebuttal <i>Markman</i> briefs - Complainants and Respondents (note that Respondents must file a consolidated brief)	October 23, 2009
Rebuttal <i>Markman</i> brief - Staff	November 2, 2009
Submission of <i>Markman</i> joint proposed claim construction chart	November 6, 2009
Tutorial	November 9, 2009 at 10:00 a.m. in Courtroom B
<i>Markman</i> hearing	November 10, 2009 at 9:00 a.m. in Courtroom B
Submission of updated <i>Markman</i> joint proposed claim construction chart	November 20, 2009
Second settlement conference	By December 1, 2009
File identification of expert witnesses, including their expertise and curriculum vitae	December 4, 2009
File notice of prior art	December 4, 2009
Submission of second settlement conference joint report	December 7, 2009
Exchange of initial expert reports (identify tests/surveys/data) on issues on which party bears burden and based on the claim constructions that the parties proposed in the updated <i>Markman</i> joint proposed claim construction chart	December 14, 2009
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party	December 21, 2009
Fact discovery cutoff and completion	January 6, 2010
Exchange of rebuttal expert reports based on the claim constructions that the parties proposed in the updated <i>Markman</i> joint proposed claim construction chart	January 15, 2010
Proposed issuance of claim construction order	February 11, 2010 <sup>1</sup>

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<sup>1</sup> The undersigned will make every attempt to issue the claim construction order by this date.

Event	Deadline Date
Deadline for filing summary determination motions	February 18, 2010
Deadline to supplement expert reports based on claim construction order	7 days after claim construction order is issued
Expert discovery cutoff and completion	19 days after claim construction order is issued
Deadline for motions to compel discovery	19 days after claim construction order is issued
Exchange of exhibit lists among the private parties	March 5, 2010
Submit and serve direct exhibits (including witness statements) with physical and demonstrative exhibits available -- Complainant(s) and Respondent(s)	March 12, 2010
Third settlement conference	By March 12, 2010
Submit and serve direct exhibits (including witness statements) with physical and demonstrative exhibits available -- Staff	March 17, 2010
File pre-trial statements and briefs -- Complainant(s) and Respondent(s)	March 19, 2010
Submission of third settlement conference joint report	March 23, 2010
File requests for receipt of evidence without a witness	March 24, 2010
Submit and serve rebuttal exhibits (including witness statements) with physical and demonstrative exhibits available -- all parties	March 24, 2010
File objections to direct exhibits (including witness statements)	March 29, 2010
File pre-trial statement and brief -- Staff	April 5, 2010
File responses to objections to direct exhibits (including witness statements)	April 5, 2010
File objections to rebuttal exhibits (including witness statements)	April 8, 2010
File high priority objections statement	April 9, 2010
Deadline for motions <i>in limine</i>	April 9, 2010

Event	Deadline Date
File responses to objections to rebuttal exhibits (including witness statements)	April 15, 2010
File responses to high priority objections statement	April 16, 2010
File responses to motions <i>in limine</i>	April 16, 2010
Pre-trial conference	April 19, 2010 at 10:00 a.m. in Courtroom B
Trial	April 19, 2010 following the pre-trial conference & April 20-30, 2010 at 9:00 a.m. in Courtroom B
File initial post-trial briefs, proposed findings of fact and conclusions of law, and final exhibit lists	May 17, 2010
File reply post-trial briefs, objections and rebuttals to proposed findings of fact	June 3, 2010
Initial Determination due	September 20, 2010 <sup>2</sup>
Target date for completion of investigation	January 18, 2011

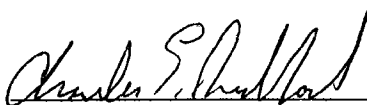
For the dates set forth above that require a submission or filing, the date set forth is the date that the submission or filing must be at or filed at the Commission (by the close of business) and is not the date that such submission or filing is merely served.

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<sup>2</sup> September 18, 2010 falls on a Saturday.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders, on its own motion, a review of the Initial Determination or certain issues herein.

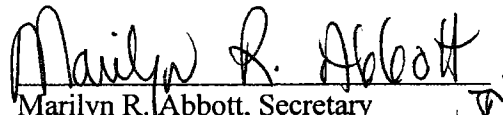
**SO ORDERED.**

  
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Charles E. Bullock  
Administrative Law Judge

**IN THE MATTER OF CERTAIN FLASH MEMORY CHIPS AND      337-TA-664  
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**CERTIFICATE OF SERVICE**

I, Marilyn R. Abbott, hereby certify that the attached **ORDER NO. 9 / INITIAL DETERMINATION** has been served upon, **Heidi E. Strain, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on June 30, **2009**.

  
Marilyn R. Abbott, Secretary  
U.S. International Trade Commission  
500 E Street, S.W., Room 112A  
Washington, DC 20436

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**IN THE MATTER OF CERTAIN FLASH MEMORY CHIPS AND      337-TA-664  
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