

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN WIRELESS COMMUNICATIONS
SYSTEM SERVER SOFTWARE, WIRELESS
HANDHELD DEVICES AND BATTERY PACKS

Inv. No. 337-TA-706


ORDER NO. 3: SETTING PROCEDURAL SCHEDULE

(April 6, 2010)

Pursuant to Order No. 2, the parties submitted a joint proposed procedural schedule. The Investigation will be controlled by the procedural schedule attached hereto as Appendix A.

The parties should take note that the Administrative Law Judge was unable to fully adopt the schedule proposed by the parties for two reasons. First, due to a shift in the Administrative Law Judge's schedule yesterday, the hearing for this Investigation will need to be advanced by approximately two weeks. Second, Complainants have asserted over fifty claims of five patents in this Investigation. Even though the parties were initially provided with a date for submission of proposals requesting a claim construction hearing (*see* Order No. 2), the Administrative Law Judge has since determined that an early Markman hearing in this Investigation would be appropriate. Therefore, the proposed procedural schedule submitted by the parties has been adapted to accommodate for the addition of a Markman hearing and the shift in dates for the evidentiary hearing.

SO ORDERED.


E. James Gildea
Administrative Law Judge

ATTACHMENT A

PROCEDURAL SCHEDULE

Parties exchange list of patent claim terms for construction	May 3, 2010
First settlement conference	May 7, 2010
File identification of expert witnesses, including their expertise and curriculum vitae	May 7, 2010
File notice of prior art	May 7, 2010
Complainant and Respondents provide Staff with their proposed construction of the disputed claim terms	May 12, 2010
Submission of first settlement conference joint report	May 14, 2010
Parties meet and confer (including Staff) in an attempt to reconcile or otherwise limit disputed claim terms	May 18, 2010
Parties submit a joint list showing each party's proposed construction of the disputed claim terms	May 20, 2010
Exchange of initial expert reports, if any, on claim construction issues	May 25, 2010
File initial Markman briefs—Complainant and Respondents	June 3, 2010
File initial Markman brief--Staff	June 7, 2010
Exchange of rebuttal expert reports, if any, on the issue of claim construction	June 11, 2010
File Markman responsive briefing—all parties	June 14, 2010
Markman hearing	9 a.m., June 24, 2010¹

¹ Hearing room space at the International Trade Commission is currently unavailable. The Markman hearing will take place at the U.S. District Court for the District of Columbia, Courtroom 21 (4th Floor of the Prettyman Building), 333 Constitution Ave. NW, Washington, DC 20001.

Parties jointly submit an updated joint list showing each party's proposed construction of any claim terms remaining in dispute	June 29, 2010
Exchange of initial expert reports (identify tests/surveys/data)	July 15, 2010
Deadline for supplementation of contention interrogatory responses—parties with burden of proof	July 28, 2010
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party	August 3, 2010
Exchange of rebuttal expert reports	August 3, 2010
Estimated date for Markman ruling	August 6, 2010
Fact discovery cutoff and completion	August 10, 2010
Deadline for final supplementation of all remaining contention interrogatory responses	August 12, 2010
Deadline for motions to compel discovery	August 18, 2010
Second settlement conference	August 18, 2010
Submission of second settlement conference joint report	August 25, 2010
Deadline for filing summary determination motions	September 1, 2010
Submission of statements regarding the use of witness statements in lieu of live direct testimony, and statements regarding whether any party intends to offer expert reports into evidence	September 8, 2010
Expert discovery cutoff and completion	September 21, 2010
File Pre-hearing statements and briefs -- Complainant and Respondents	September 29, 2010
Exchange of exhibit lists among the parties	October 1, 2010
File Pre-hearing statement and brief -- Staff	October 5, 2010

Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available -- Complainant and Respondents	October 6, 2010
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available -- Staff	October 8, 2010
Deadline for motions <i>in limine</i>	October 13, 2010
File requests for receipt of evidence without a witness	October 15, 2010
File objections to direct exhibits (including witness statements)	October 15, 2010
Submit and serve rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits available -- all parties	October 15, 2010
File responses to objections to direct exhibits (including witness statements)	October 21, 2010
File objections to rebuttal exhibits (including witness statements)	October 21, 2010
Third settlement conference	October 22, 2010
File statement of high priority objections	October 26, 2010
File responses to motions <i>in limine</i>	October 26, 2010
File response to objections to rebuttal exhibits (including witness statements)	October 26, 2010
Submission of third settlement conference joint report	October 29, 2010
File responses to statement of high priority objections	October 29, 2010
Submission of declarations justifying confidentiality of exhibits	October 29, 2010
Tutorial on technology	9:30 a.m., November 5, 2010, Hearing Room A

Pre-hearing conference	November 5, 2010, Hearing Room A (following tutorials)
Hearing	November 5-18, 2010,² Hearing Room A
File initial post-hearing briefs, proposed findings of fact and conclusions of law, and final exhibit lists	November 30, 2010
File reply post-hearing briefs, objections and rebuttals to proposed findings of fact	December 8, 2010
Final ID due	February 24, 2011
Target Date	June 24, 2011


² Note: November 11 is a Federal Holiday and will not be a hearing day.

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PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **ORDER** has been served by hand upon, the Commission Investigative Attorney, **Kevin G. Baer, Esq.**, and the following parties as indicated on April 6, 2010.


Marilyn R. Abbott, Secretary *JMS*
U.S. International Trade Commission
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