

F O R M

[ADD: CASE HEADING]

PROPOSED SCHEDULING ORDER (PATENT CASES)

1. Discovery

The following time limits and deadlines shall be applicable.

A. All disclosures required by Rule 26(a)(1) shall be made on or before _____.

B. Any amendments to pleadings or actions to join other parties shall be filed on or before _____.

(It is recommended that any joinder or amendments be made early in the discovery process so as to avoid the need to prolong discovery as to new parties or new issues.)

C. Claim Construction and Invalidity

1. The patent holder shall disclose asserted claims and infringement contentions by _____.

2. The accused infringer shall disclose any invalidity contentions by _____.

3. Both parties shall exchange their respective versions of proposed terms and claim elements for construction in the form of jury instructions by _____.

4. Both parties shall disclose any extrinsic evidence in support of their respective claim constructions by _____. As to any experts so disclosed, a Rule 26(a)(2) report shall be included as part of the disclosure. Discovery as to extrinsic evidence shall be on an expedited basis.

5. Any modification to the proposed terms and claim elements for construction shall be filed by _____.

6. Both parties shall file their memoranda in support of their respective versions of claim construction along with any exhibits to be offered during the *Markman* hearing and a list of witnesses who will be called to testify at the hearing by _____.

(In addition to any lay witnesses called, each side is limited to no more than one expert witness)

- D. The cutoff of any other fact discovery is _____.
- E. The parties shall disclose any other expert testimony pursuant to Rule 26(a)(2) on or before _____.
- F. The parties may depose the other side's expert at any time prior to _____.
- G. The parties shall disclose any rebuttal expert pursuant to Rule 26(a)(2)(c) at any time prior to _____.
- H. The parties shall have until _____ to depose the opposing party's rebuttal expert.

2. Motions

Any dispositive motions to be filed on or before

_____. (Ordinarily this date will be 30 days following the close of fact discovery and after the Markman Hearing.)

3. Final Pretrial Order and Conference

The final pretrial order shall be filed on or before _____.
(Ordinarily this date will be 90 days after the deadline for dispositive motions.)

The final pretrial conference will be held on

_____ at _____ .m. (This date and time will be set by the
Court at the Rule 16 conference.)

4. Trial

Trial is set in this matter on _____
at 10:00 a.m. (The trial date will be set by the
Court at the Rule 16 conference.)