

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

In the Matter of

**CERTAIN DIGITAL VIDEO RECEIVERS
AND RELATED HARDWARE AND
SOFTWARE COMPONENTS**

Inv. No. 337-TA-1103

ORDER NO. 4: SETTING PROCEDURAL SCHEDULE

(April 16, 2018)

On April 10, 2018, Rovi Corporation, Rovi Guides, Inc., Rovi Technologies Corporation, and Veveo, Inc. (“Complainants”), together with Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, Comcast Business Communications, LLC, Comcast Holdings Corporation, and Comcast Shared Services, LLC (“Respondents” or “Comcast,” and with Complainants, the “Private Parties”) and the Office of Unfair Import Investigations (“Staff,” and together with Complainants and Respondents, “the Parties”), filed a Joint Submission of Parties’ Corrected Proposed Procedural Schedule (“Corrected Proposed Schedule”). (Doc. ID No. 641506; Corrected Proposed Schedule at 1.).

The Corrected Proposed Schedule includes an agreed-upon date omitted from the Joint Submission of Parties’ Proposed Procedural Schedule (Doc. ID No. 641281) submitted by the Parties on April 6, 2018. (*Id.*). In particular, the Corrected Proposed Schedule provides a date for the Parties to file their Joint Claim Construction Chart. (*Id.*).

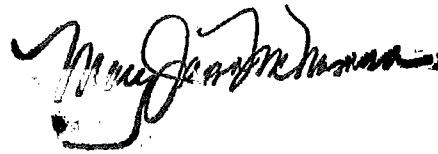
In their Corrected Proposed Schedule, the Parties also seek reasonable additions to the Court's previously issued Proposed Schedule & Dates ("Court's Initial Schedule") dated March 28, 2018. (Order No. 2 (Mar. 28, 2018.)). Specifically, the Parties propose "to add a deadline for the substantial completion of document production" by the Parties (not third parties), "multiple additions ... designed to conform the schedule to the ALJ's Ground Rules and otherwise clarify the parties' obligations," and "separating the deadlines for responses to contention interrogatories for which the party bears the burden of proof from those for which the party does not bear the burden of proof." (Corrected Proposed Schedule at 2-3.).

The Parties also demonstrate "extraordinary reasons" for their requested three-week extension of the expert discovery deadline set in the Court's Initial Schedule. (*Id.* at 3-4; Order No. 2 at 2 ("The Parties should have extraordinary reasons for proposing scheduling changes.")). As the Parties explain, the Court's Initial Schedule "only provides two weeks between the close of fact and expert discovery, and, during those two weeks, there is both the *Markman* hearing in this investigation and the Independence Day holiday." (Corrected Proposed Schedule at 3.). More time for expert discovery is warranted given that Complainants have identified six testifying experts and accused Respondents' of infringing 118 claims from eight utility patents. (*Id.* at 4.).

The Procedural Schedule attached hereto as Appendix A accepts most proposed scheduling changes set forth in the Parties' Corrected Proposed Schedule. Only two proposed changes were rejected. These involve the proposed simultaneous submission by the Private Parties of Joint Charts of Legal Issues with pre- and post-hearing briefs, before Staff files its corresponding briefs. (*Id.*, Ex. A.). This would result in the Court

receiving too many Joint Charts of Legal Issues, given the staggered deadlines for the Private Parties and Staff to submit pre- and post-hearing briefs. The Court expects to receive only two such Charts, one after all of the Parties have submitted Pre-Hearing Briefs and one after all of the Parties have submitted Post-Hearing Reply Briefs.

SO ORDERED.

A handwritten signature in black ink, appearing to read "MaryJoan McNamara", written over a horizontal line.

MaryJoan McNamara
Administrative Law Judge

APPENDIX A

Inv. No. 337-TA-1103

PROCEDURAL SCHEDULE & DATES

Event	Date(s)
Parties File a Proposed Procedural Schedule and Identify USPTO/PTO Proceedings as Well as State and Federal Litigation That Is Relevant to This Investigation	April 6, 2018
Deadline for Complainant's Objections and Responses to Respondents' First Set of Interrogatories and Request for Production	April 12, 2018
Deadline for Respondent's Objections and Responses to Complainants' First Set of Interrogatories and Request for Production	April 12, 2018
Deadline for Propounding First Set of Interrogatories	April 13, 2018
Deadline for Propounding First Request for Production of Documents	April 13, 2018
Deadline for Propounding Initial Contention Interrogatories	April 20, 2018
File Identification of Expert Witnesses, Including Their Expertise and Curriculum Vitae	May 2, 2018
Complainants File Notice of Patent Priority Dates/Dates of Conception and Curriculum Vitae	May 2, 2018
Parties Exchange List of Patent Claim Terms for Construction	May 2, 2018
Deadline for Disclosure of Domestic Industry Products (Per Ground Rule 1.13)	May 11, 2018
Deadline for Initial Contention Interrogatory Responses on Which a Party Has the Burden of Proof (Except for Infringement and Invalidity)	May 11, 2018

Event	Date(s)
Respondents File Notice of Prior Art	May 11, 2018
Deadline for Disclosure of Invalidity Contentions	May 18, 2018
Deadline for Disclosure of Infringement Contentions	May 18, 2018
Complainants and Respondents Provide Staff with Their Proposed Construction of Disputed Claim Terms	May 25, 2018
Deadline for First Settlement Conference	May 31, 2018
File Tentative List of Witnesses a Party Will Call to Testify at the Evidentiary Hearing, with an Identification of Each Witness's Relationship to the Party	June 1, 2018
Parties Meet and Confer (including Staff) to Attempt to Limit Claim Terms and Claim Term Disputes	June 1, 2018
Deadline for Substantial Completion of Document (Paper and Electronic) Discovery by Complainants and Respondents	June 1, 2018
Submit First Settlement Conference Joint Report	June 7, 2018
Parties to Exchange Proposed <i>Markman</i> Exhibit Lists and Exhibits (Except for Expert Declarations and Demonstratives) (Per Ground Rule 1.14.3.1)	June 8, 2018
File Joint Claim Construction Chart	June 8, 2018
Deadline for Responses to Contention Interrogatories on Which a Party Does Not Bear the Burden of Proof	June 11, 2018
Parties File a Joint List Showing Each Party's Proposed Construction of Disputed Claim Terms, with Initial Briefs by All Parties Explaining Their Initial Claim Constructions and Expert Declarations (If Applicable)	June 15, 2018
Deadline to File <i>Markman</i> Hearing Proposals (Including Final Proposed <i>Markman</i> Exhibit Lists)	June 15, 2018
Deadline for Disclosure of Domestic Industry Contentions	June 22, 2018

Event	Date(s)
Last Day to File Motions to Compel Discovery	June 29, 2018
Fact Discovery Cutoff and Completion	June 29, 2018
Exchange of Initial Expert Reports (Identify Tests/Surveys/Data)	July 2, 2018
Technology Stipulation Deadline	July 3, 2018
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	July 6, 2018
<i>Markman</i> Hearing (If Ordered) (Parties Should Provide Thumb Drive of Tutorials if Included in <i>Markman</i> Hearing)	Week of July 9-13, 2018
File Joint Chart Setting Forth Parties' Post-Hearing Claim Constructions (Per Ground Rule 1.14)	July 20, 2018
Exchange of Rebuttal Expert Reports	July 25, 2018
Last Day to File Summary Determination Motions ¹	July 27, 2018
Parties Exchange Hearing Exhibit Lists	August 3, 2018
Expert Discovery Cutoff and Completion	August 8, 2018
Submit and Serve Direct Exhibits (Including Witness Statements, if Appropriate), with Physical and Demonstrative Exhibits Available — Complainants and Respondents	August 10, 2018
File Requests for Receipt of Evidence Without a Witness	August 10, 2018

¹ Given that Commission Rule 210.18 requires at least 60 days between summary determination motions and the evidentiary hearing, the summary determination deadline may be moved to a later date if the proposed hearing dates do not change.

Event	Date(s)
Submit and Serve Direct Exhibits (Including Witness Statements), with Physical and Demonstrative Exhibits Available — Staff	August 13, 2018
Submit and Serve Rebuttal Exhibits (Including Witness Statements, If Permitted), with Rebuttal Physical and Demonstrative Exhibits Available	August 15, 2018
Last Day to Request Additional Hearing Days (Per Order No. 2 at 8)	August 17, 2018
Complainants and Respondents File Pre-Hearing Statements and Briefs (Briefs should contain no more than 100 pages of text, each side, unless there is no identify of interests, or different interests.)	August 17, 2018
Submit Combined Exhibit List (Per Ground Rule 8.6.6)	August 20, 2018
Submit Witness Statement Binders (Per Ground Rule 8.3.2)	August 22, 2018
Staff files Pre-hearing Statement and Brief (No more than 100 pages of text)	August 24, 2018
Parties file Joint Outline of Issues/Contentions from Pre-Hearing Briefs (Per Ground Rule 7.3)	August 28, 2018
Submission of Declarations Justifying Confidentiality of Exhibits	September 5, 2018
Attendance at One-day Mediation Session ²	By September 7, 2018
Submission of Mediation Report	(Within 7 days of Mediation)
Last day to file Motions <i>in Limine</i>	September 7, 2018

² For any questions regarding the mediation program, the parties should refer to the Revised Users' Manual for Commission Mediation Program, available at <http://www.usitc.gov>.

Event	Date(s)
Last day to file High Priority Objections	September 7, 2018
File Responses to Motions <i>in Limine</i>	September 18, 2018
File Responses to High Priority Objections	September 18, 2018
Pre-Hearing Conference	October 17, 2018
Evidentiary Hearing (Starting with Tutorials, as Parties Propose)	9:30 a.m., October 17-19, 22-24, 2018
Last Day to Submit Final Exhibits, by Appointment. All Exhibits Should be Properly Labeled. (Follow the Ground Rules)	October 30, 2018
Complainants and Respondents File Initial Post-Hearing Briefs (Only On Issues For Which The Party Bears The Burden Of Proof, Per Order No. 2 at 4) and Final Exhibit Lists (Briefs No More Than 75 Pages of Text)	November 19, 2018
Submit Final JOINT Direct and Rebuttal Exhibits (via Flash Drive)	November 19, 2018
Staff Files Initial Post-Hearing Brief and Final Exhibit List (Brief No More Than 75 Pages of Text)	November 30, 2018
Complainants and Respondents File Reply Post-Hearing Briefs (Only On Issues Discussed In The Initial Post-Hearing Brief of an Opposing Party, Per Order No. 2 at 4) (Briefs No More Than 50 Pages of Text)	December 7, 2018
Staff Files Reply Post-Hearing Brief (Brief No More Than 50 Pages of Text)	December 14, 2018
Parties File Outline of Issues, Tracing Arguments/Contentions from Pre-Hearing Through Post-Hearing Reply Briefs (Include Contentions/Arguments That Have Been Dropped, Per Ground Rule 7.3)	December 18, 2018

Event	Date(s)
Final ID due	April 16, 2019
Target Date	August 16, 2019

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **John Shin, Esq.** and the following parties as indicated, on **April 16, 2018**.



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

**On Behalf of Complainants Rovi Corporation, Rovi Guides,
Inc., and Rovi Technologies Corporation, Veveo, Inc.:**

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- ☐ Via Hand Delivery
☐ Via Express Delivery
☒ Via First Class Mail
☐ Other: _____

**On Behalf of Respondents Comcast Corporation, Comcast
Cable Communications, LLC, Comcast Cable
Communications Management, LLC, Comcast Business
Communications, LLC, Comcast Holdings Corporation, and
Comcast Shared Services, LLC:**

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