

ORDER SETTING TIMES
(Times for taking action--preliminary motion phase)

Part A. Conference call

A @hearing/telephone conference call was held on @_____ 200@_, at approximately @__:__ a/p.m., involving:

1. @[name of APJ], @Administrative Patent Judge.
2. @_____, counsel for @_____.
3. @_____, counsel for @_____.
4. @_____, counsel for @_____.
5. @_____, counsel for @_____.

Part B. Relevant discussion during conference call

The principal purpose of the conference call was to set times for taking action during the preliminary motion phase of the interference.

@insert any relevant discussion not otherwise covered herein.

Part C. Time periods associated with preliminary motions

In accordance with discussion during the @hearing/telephone conference call, the following "Time Periods" as set out in an Appendix to this ORDER are established in this interference:

1. TIME PERIOD 1

The time for filing and serving preliminary motions (37 CFR § 1.636(a)), and serving (but not filing) of evidence in support of those preliminary motions, is set to expire at the end of TIME PERIOD 1.

If no party files a preliminary motion, the parties shall place a conference call to the administrative patent judge so that a time for taking testimony or other appropriate action may be set.

Attention is directed to STANDING ORDER ¶ 13.4.3 if a request is made for leave to take testimony to support a preliminary motion.

Attention is directed to STANDING ORDER ¶ 13.4.4 with respect to any preliminary motion for judgment (37 CFR § 1.633(a)) based on alleged inequitable conduct or fraud.

2. TIME PERIOD 2

The time for filing and serving preliminary motions pursuant to 37 CFR § 1.633(i) and (j) responsive to a preliminary motion filed by an opponent (37 CFR § 1.636(b)), and serving (but not filing) of evidence in support of those preliminary motions, is set to expire at the end of TIME PERIOD 2.

3. TIME PERIOD 3

The time for filing and serving oppositions to all preliminary motions, including preliminary motions filed pursuant to 37 CFR § 1.633(i) and (j), and serving (but not filing) evidence in support of those oppositions, is set to expire at the end of TIME PERIOD 3.

4. TIME PERIOD 4

The time for filing and serving replies to all oppositions, and serving (but not filing) of evidence in support of those replies, is set to expire at the end of TIME PERIOD 4.

5. TIME PERIOD 5

If a party desires a hearing on preliminary motions, the time for filing and serving a request for a hearing is set to expire at the end of TIME PERIOD 5.

6. TIME PERIOD 6

The time for filing and serving:

- (a) motions to suppress evidence relied upon by an opponent in connection with preliminary motions (compare 37 CFR § 1.656(h)); and
- (b) observations by a cross-examining party with respect to cross-examination of an opponent's affiants which took place following filing of replies

is set to expire at the end of TIME PERIOD 6.

7. TIME PERIOD 7

The time for filing and serving:

- (a) oppositions to an opponent's motion to suppress and
- (b) a response to observations by a cross-examining party with respect to cross-examination of an opponent's affiants following filing of replies

is set to expire at the end of TIME PERIOD 7.

The parties are authorized to stipulate different times (earlier or later, but not later than TIME PERIOD 7) for TIME PERIODS 1 through 6, provided, a notice is filed with the board as soon as practical after any agreement is reached. The notice should be in the form of a photostatic copy of the Appendix attached to this ORDER with old dates crossed out and new dates inserted by hand. The purpose of this requirement is to make it easy for personnel at the board to determine the changes in dates agreed to by the parties. The parties may not stipulate an extension of TIME PERIOD 7.

Part D. Deposition transcripts

Transcripts of depositions of cross-examination or depositions taken under 35 U.S.C. § 24 shall be served, but not filed with the board until the exhibits are filed. A certified copy of a transcript of a deposition need not be filed unless requested by the board.

Part E. Serving exhibits relied upon in preliminary motions

An exhibit, including an affidavit, relied upon in connection with preliminary motions, oppositions, and replies shall be served (but not filed with the board) with the preliminary motion, opposition, reply or affidavit in which the exhibit is first mentioned.

Part F. Time for filing the record in connection with preliminary motions

TIME PERIOD 8

On or before the expiration of TIME PERIOD 8, the following shall be filed:

1. An original and one or three sets of all exhibits (see STANDING ORDER ¶ 14.8.2).
2. For each preliminary or other motion, three folders each containing a set of motion documents, consisting of (1) the preliminary or other motion, (2) its opposition, (3) its reply and (4) any response to cross-examination observations.
3. Any ZIP® disk or CD-ROM which a party elects to file.

Part G. Preliminary statements

The time for filing (but not serving) preliminary statements (37 CFR § 1.621(a), see also 37 CFR § 1.627(a)) is the same as the time for complying with TIME PERIOD 1.

The time for filing the notice required by 37 CFR § 1.621(b) is the same as the time for complying with TIME PERIOD 1.

A junior party who does not file a preliminary statement shall not have access to the preliminary statement of any other party. 37 CFR § 1.631(b).

Without further order of the board, within **one (1) week** after the date for filing preliminary statements, a copy of a party's preliminary statement shall be served on each opponent who served a notice under 37 CFR § 1.621(b).

Part H. Signature of administrative patent judge

@

@ Administrative Patent Judge

@Date: _____

Version 7 (replaces Version 6)

Revised May 2003

Appendix

ORDER SETTING TIMES
(Times for taking action--preliminary motion phase)

Interference 105,@___

- | | | |
|----|---|--------|
| 1. | TIME PERIOD 1 Filing preliminary motions and preliminary statement | @_____ |
| 2. | TIME PERIOD 2 Filing Rule 633(i) and Rule 633(j) preliminary motions | @_____ |
| 3. | TIME PERIOD 3 Filing of oppositions to all preliminary motions | @_____ |
| 4. | TIME PERIOD 4 Filing of replies | @_____ |
| 5. | TIME PERIOD 5 Filing of request for hearing | @_____ |
| 6. | TIME PERIOD 6 Filing of motions to suppress and observations with respect to cross-examination taken after filing of replies | @_____ |
| 7. | TIME PERIOD 7 Filing of oppositions to motions to suppress and any response to observations with respect to cross-examination | @_____ |
| 8. | TIME PERIOD 8 Filing exhibits, sets of preliminary motions and ZIP® disks/CD-ROMs | @_____ |