

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

Part A. Conference call

A @hearing/telephone conference call was held on
@_____ @__, 19@__, at approximately @__:__ a/p.m.,
involving:

1. @[name of APJ], @Administrative Patent Judge.
2. @_____, Esq., counsel for
@_____.
3. @_____, Esq., counsel for
@_____.
4. @_____, Esq., counsel for
@_____.
5. @_____, Esq., 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 § 26(f) of the STANDING ORDER if a request is made for leave to take testimony to support a preliminary motion.

Attention is directed to § 26(g) of the STANDING ORDER with respect to any preliminary motion for judgment (37 CFR § 1.633(a)) based on alleged inequitable conduct and/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

The time for filing and serving:

- (a) if a party desires a hearing on preliminary motions, a request for a hearing;
- (b) motions to suppress evidence relied upon by an opponent in connection with preliminary motions (compare 37 CFR § 1.656(h)); and
- (c) 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 5.

6. TIME PERIOD 6

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 6.

7. TIME PERIOD 7

The time for filing and serving replies to oppositions to motions to suppress 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 and/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 § 39 of the STANDING ORDER under "Filing of exhibits").
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 and/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: _____
Arlington, VA

Appendix

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

Interference @104,___

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; motions to suppress
and observations with
respect to cross-examination
taken after filing of
replies
6. TIME PERIOD 6 @ _____
Filing of oppositions to
motions to suppress and
any response to observations
with respect to cross-
examination
7. TIME PERIOD 7 @ _____
Filing replies to
oppositions to motions
to suppress
8. TIME PERIOD 8 @ _____
Filing exhibits,
sets of preliminary
motions and zip/CD-ROMs

ORDERPM6 (replaces ORDERPM5)
Revised September 2000