IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-02640-REB

WYERS PRODUCTS GROUP, INC. a Colorado corporation, and PHILIP W. WYERS,

Plaintiffs,

v.

CEQUENT PERFORMANCE PRODUCTS, INC.,

Defendant.

PLAINTIFFS' UNOPPOSED MOTION TO SET MARKMAN HEARING

Plaintiffs Wyers Products Group, Inc., and Philip W. Wyers ("Wyers") by and through their undersigned counsel, hereby submit its Unopposed Motion to Set Markman Hearing, and respectfully move the Court to set a date certain for a Markman Hearing in this case and state the following:

Certificate of Conferral Pursuant to D.C.Colo.LCivR 7.1(A)

Counsel for Plaintiffs have conferred with counsel for Defendant concerning the Motion to set Markman Hearing, and Defendant's counsel Matthew J. Cavanagh stated Defendant does not oppose this Motion.

The parties engaged in a scheduling conference on October 15, 2013, and a scheduling order was adopted, which includes the following Markman related deadline schedule.

CHART OF PATENT RELATED DEADLINES	
Plaintiffs' Infringement Contentions	Disclosed on 4/26/2013
Joint Claim Construction Statement per Minute Order dated September 16, 2013 (Document 59).	October 10, 2013
Defendant's Non-Infringement Contentions	November 1, 2013
Plaintiffs Opening *Markman* Brief per Order dated October 9, 2012 (Document 5).	November 11, 2013
Defendant's *Markman* Response Brief per Order dated October 9, 2012 (Document 5).	December 3, 2013
Defendant's Invalidity Contentions	December 17, 2013
Plaintiffs' Reply in support of Opening Markman Brief per Order dated October 9, 2012 (Document 5).	December 17, 2013
Plaintiffs' Disclosure of Objective Indicia of Non-Obviousness	December 27, 2013
Markman Hearing at the Court's Convenience	January/February of 2014

During the scheduling conference, the Court also set the trial for October 20, 2014. With all Markman briefs submitted to the Court in December, 2013, and expert disclosure deadlines set in April and May of 2014, it would be most efficient to have the Markman hearing completed sometime between January 15, 2014 and February 29, 2014, with the exception of January 16-22 and February 13-19, which Plaintiffs' counsel has indicated they are unavailable.

The Court's Markman order will be critical to the parties' respective experts and their analysis of issues such as infringement, non-infringement and invalidity. If the *Markman* hearing occurs between January 15, 2014 and February 29, 2014, the Court

will have the opportunity to prepare a written order completed sometime in March. This will in turn allow the experts of both parties to consider the Court's order when forming their respective opinions in advance of the expert disclosure deadlines in April and May.

WHEREFORE, Plaintiffs Wyers Products Group, Inc. and Philip W. Wyers respectfully request the Court to set a date certain for the Markman hearing in this case sometime between January 15, 2014 and February 29, 2014, in the interests of judicial economy.

Respectfully submitted, this 17th day of October, 2013.

LATHROP & GAGE LLP

s/ Jessie L. Pellant

Aaron P. Bradford
Alexander C. Clayden
Jessie L. Pellant
950 17th Street, Suite 2400
Denver, Colorado 80202
Phone: (720) 931-3200
Fax: (720) 931-3201
Email: abradford@lathropgage.com
aclayden@lathropgage.com
jpellant@lathropgage.com

Attorneys for Plaintiffs Wyers Products Group and Philip W. Wyers

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2013, the foregoing **PLAINTIFFS' UNOPPOSED MOTION TO SET MARKMAN HEARING** was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

David B. Cupar
Matthew J. Cavanagh
600 Superior Avenue East, Suite 2100
Cleveland, Ohio 44114
dcupar@mcdonaldhopkins.com
mcavanagh@mcdonaldhopkins.com

Andrew J. Petrie
Featherstone Petrie DeSisto LLP
600 17th Street, Suite 2400 S
Denver, Colorado 80202
apetrie@featherstonelaw.com

Attorneys for Defendants Cequent Peformance Products, Inc.

LATHROP & GAGE LLP

s/ Jessie L. Pellant
Aaron P. Bradford
Alexander C. Clayden
Jessie L. Pellant
950 17th Street, Suite 2400
Denver, Colorado 80202
Phone: (720) 931-3200
Fax: (720) 931-3201
Email: abradford@lathropgage.com
aclayden@lathropgage.com
jpellant@lathropgage.com

Attorneys for Plaintiffs Wyers Products Group and Philip W. Wyers