

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE PAPST LICENSING GMBH & CO. KG
LITIGATION

This Document Relates To:

Konica Minolta Photo Imaging v. Papst, 08-cv-01433

Papst v. Eastman Kodak Co., 08-cv-01407

Papst v. Canon, 08-cv-01406

Papst v. Sanyo Electric Co., 08-cv-01405

Papst v. Konica Minolta Holdings Inc., 08-cv-01406

Misc. Action No. 07-493 (RMC)

MDL Docket No. 1880

**MOTION FOR MODIFICATION OF SCHEDULING ORDER FOR NEWLY ADDED
PARTIES AND STATEMENT OF POINTS AND AUTHORITIES**

Papst Licensing GmbH & Co. KG (“Papst”) respectfully requests that this Court modify the Court’s current scheduling order so that the newly added parties can be efficiently included in this Court’s MDL action. Recently, the following new tag-along actions were either transferred to or filed in this Court:

Konica Minolta Photo Imaging v. Papst, 08-cv-01433

Papst v. Eastman Kodak Co., 08-cv-01407

Papst v. Canon, 08-cv-01406

Papst v. Sanyo Electric Co., 08-cv-01405

Papst v. Konica Minolta Holdings Inc., 08-cv-01406

In the Second Practice & Procedure Order, dated April 8, 2008, this Court set a series of pretrial deadlines applicable to the parties included in the MDL at that time. (Dkt. #36.) The Order contemplated a modification of those pretrial deadlines to address newly added parties by providing that, “To the extent that a party in a related or tag-along action seeks modification of this Order, the party shall file a motion no later than twenty days after the related or tag-along action is filed, transferred, or removed to the Master Docket. (Second Practice and Procedure Order, p. 1)(Dkt. #36.)

Because more than 4 ½ months have elapsed since the Second Practice and Procedure Order, it is no longer practical for the various pretrial deadlines be complied with respect to the new actions. For example, the deadlines to provide infringement contentions and invalidity contentions for the newly added parties have since passed. Accordingly, Papst respectfully requests that this Court extend all relevant deadlines for these new actions by a period of approximately 4 ½ months.

In their meet and confer, counsel for the newly added parties indicated that all discovery should be stayed with respect to the new parties until this Court issues its *Markman* hearing. Papst contends that this proposal is inefficient because it will cause the parties to lose valuable time when the parties could otherwise be pursuing meaningful liability discovery. It is unlikely that any *Markman* ruling will change the scope of liability discovery, and the new parties have not yet explained how any specific *Markman* ruling could change the scope discovery. Accordingly, Papst respectfully requests that this Court modify the current scheduling deadlines for the newly added parties in accordance with the chart below:

Event	Previous Date	Modified Date for New Actions
Rule 26(f) conference for new parties	N/A	September 12, 2008
<i>Markman</i> brief for new parties on new interpretations	N/A	September 12, 2008
Papst <i>Markman</i> response brief on new interpretations	N/A	September 19, 2008
Notice of Document Depository; Initial Disclosures	April 21, 2008	September 19, 2008
Claims and Infringement Contentions	May 28, 2008	October 1, 2008
Invalidity Contentions	June 18, 2008	October 22, 2008
Initial Privilege Logs; Motions to join 3d parties or to amend	June 25, 2008	October 29, 2008
<i>Markman</i> hearing	September 22-24, 2008	Same
Fact Discovery Re Liability Completed	December 19, 2008	April 20, 2009
Principal Experts	January 30, 2008	May 20, 2009
Rebuttal Experts	February 27, 2009	February 27, 2009

Counsel for the newly added Camera Manufacturers have also indicated that they were not willing to participate or be bound the Court's current *Markman* process. Instead, the Camera Manufacturers appear to be reserving their right to challenge the Court's *Markman* opinions at a later date if they do not receive the *Markman* results they are looking for. Because the newly added parties will have sufficient time to prepare for and will be free to participate at the *Markman* hearing on Sept. 22-24, 2008, Papst respectfully requests that the newly added parties be deemed bound to this Court's *Markman* opinion. Should the newly added parties wish to assert new claim interpretations that are different from the interpretations previously submitted by the Camera Manufacturers, Papst suggests that they be allowed to file a brief on those different interpretations on September 12, 2008, and that Papst be allowed to file a responsive brief on September 19, 2008, as provided in the schedule above.

WHEREFORE, Papst respectfully requests that this Court enter the Order attached hereto as Exhibit A.

Dated: September 2, 2008

/s/ Joseph E. Cwik
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EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE PAPST LICENSING GMBH & CO. KG
LITIGATION

This Document Relates To:
ALL CASES

Misc. Action No. 07-493 (RMC)

MDL Docket No. 1880

**[PROPOSED] ORDER ON MOTION FOR MODIFICATION OF SCHEDULING
ORDER FOR NEWLY ADDED PARTIES**

This Order shall, unless superseded by subsequent orders, govern discovery between the Camera Manufacturers and Papst Licensing GmbH & Co. KG. in the following actions:

Konica Minolta Photo Imaging v. Papst, 08-cv-01433

Papst v. Eastman Kodak Co., 08-cv-01407

Papst v. Canon, 08-cv-01406

Papst v. Sanyo Electric Co., 08-cv-01405

Papst v. Konica Minolta Holdings Inc., 08-cv-01406

As a modification to the Court Second Practice and Procedure Order, the Court hereby **ORDERS** that that following modified deadlines apply to the parties involved in the new actions identified above:

Event	Previous Date	Modified Date for New Parties
Rule 26(f) Conference for new parties	N/A	September 12, 2008
<i>Markman</i> brief for new parties on new interpretations	N/A	September 12, 2008
Papst <i>Markman</i> response brief on new interpretations	N/A	September 19, 2008
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ROSEMARY M. COLLYER
United States District Court Judge