IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

U.S. PHILIPS CORPORATION, Plaintiff, v. EASTMAN KODAK COMPANY, Defendant.	)	Civil Action No. 06-251-GMS

SCHEDULING ORDER

This ___ day of February 2007, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on January 24, 2007, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures**. Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before **February 16, 2007**.

2. **Joinder of other Parties and Amendment of Pleadings**. All motions to join other parties and amend the pleadings shall be filed on or before **August 24, 2007**.

3. **Reliance Upon Advice of Counsel**. Defendant shall inform plaintiffs whether it intends to rely upon advice of counsel as a defense to willful infringement no later than **July 31, 2007**. If defendant elects to rely on advice of counsel as a defense to willful infringement, defendant shall produce any such opinions on which defendant intends to rely to plaintiff no later than **August 13, 2007**.

4. ***Markman* Claim Construction Hearing**. A *Markman* claim construction hearing shall be held on **November 20, 2007 at 9:30 a.m.** The *Markman* hearing is scheduled for a total of 4 hours with each side having 2 hours. The parties shall meet and confer regarding narrowing and reducing the number of claim construction issues. On or before **September 25, 2007**, the parties shall submit a Final Joint Claim Chart which shall include citations to intrinsic evidence. The plaintiff shall submit to the Court, a Joint Appendix of Intrinsic and Extrinsic Evidence (the "Joint Appendix") containing all intrinsic and extrinsic evidence relied upon in the claim construction briefing. A sample table of contents of the Joint Appendix can be located on this court's website at www.ded.uscourts.gov. The Joint Appendix shall be filed on the same day as the answering claim construction briefs. The parties shall file opening claim construction briefs on **October 9, 2007**, and answering claim construction briefs on **October 23, 2007**.

5. **Discovery**. All fact discovery in this case shall be initiated so that it will be completed on or before **October 1, 2007**. Expert Discovery in this case shall be initiated so that it will be completed on or before **January 22, 2008**. Designation of experts (and expert reports) on issues for which the party has the burden of proof shall be served on or before **November 30, 2007**. Designation of experts (and expert reports) on issues for which the party does not have the burden of proof shall be served on or before **December 20, 2007**.

a. **Discovery and Scheduling Matters**: Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint**, **nonargumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample letter can be located on this court's website at www.ded.uscourts.gov. Should the court

find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

6. **Confidential Information and Papers filed under Seal**. Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order. When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 5(a).

7. **Settlement Conference**. At this time, this matter will not be referred to the United States Magistrate for the purpose of exploring the possibility of a settlement. However, the parties may seek an outside neutral mediator for mediation purposes, if necessary.

8. **Summary Judgment Motions**. Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief shall be no longer than five (5) pages and shall be filed with the Court no later than **October 8, 2007**. Answering letter briefs shall be no longer than five (5) pages and filed with the court no later than **October 15, 2007**. Reply letter briefs shall be no longer than three (3)

pages and filed with the Court on or before **October 19, 2007**. The Court shall hold a telephonic Status Conference to hear argument and to determine whether the filing of any motion for summary judgment will be permitted on **October 26, 2007 at 10:00 a.m. Unless the Court directs otherwise, no letter requests to file a motion for summary judgment may be filed at a time before the dates set forth in paragraph 8.**

9. **Case Dispositive Motions**: All case dispositive motions and an opening brief and affidavits, if any, in support of the motion shall be served and filed on or before **November 9, 2007**, or two weeks after the Court renders a decision allowing the filing of such motions, whichever is later. Briefing will be presented pursuant to the court's Local Rules, unless the parties agree to an alternative briefing schedule. Any such agreement shall be in writing and filed with the Court for the Court's approval. Any request for extensions of time as set forth in this Scheduling Order **must** be accompanied by an explanation or your request will be denied.

10. **Applications by Motion**: Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

11. **Oral Argument**. If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

12. **Pretrial Conference**. On **April 2, 2008, at 10:00 a.m.**, the Court will hold a Pretrial Conference in Courtroom 4A with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order (a sample form of Pretrial Order can be located on this court's website at www.ded.uscourts.gov) satisfies the pretrial disclosure

requirement in Federal Rule of Civil Procedure 26(a)(3). On or before **January 28, 2008**, plaintiff's counsel shall forward to defendant's counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft. On or before **February 7, 2008**, defendant's counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft as well as the information defendant proposes to include in the proposed pretrial order. Motions *in limine*: No party shall file more than five (5) motions *in limine*. The parties shall exchange opening *in limine* briefs on **February 11, 2008**, answering *in limine* briefs on **February 25, 2008**, and reply *in limine* briefs on **March 3, 2008**. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages. The parties shall file with the court the Joint Proposed Pretrial Order with the information required by the form of Final Pretrial Order which accompanies this Scheduling Order on or before **March 3, 2008**.

13. **Trial**. This matter is scheduled for a 7-day jury trial beginning at **9:00 a.m. on April 28, 2008**.

14. **Scheduling**: The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

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UNITED STATES DISTRICT JUDGE