

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

HOYT A. FLEMING,

Plaintiff,

v.

ESCORT, INC., et al.,

Defendants.

Case No. 1:12-CV-066-BLW

**MEMORANDUM DECISION AND  
ORDER**

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**INTRODUCTION**

The Court has before it Fleming's motion to vacate the claim construction hearing set for November 8, 2013. The motion is fully briefed and at issue. For the reasons explained below, the Court will grant the motion.

**ANALYSIS**

The Court's Local Patent Rule 4.6 gives the Court discretion in deciding whether to hold a hearing before construing claims. In this case, the Court is well-familiar with the technology, having already conducted a trial on two of the three patents at issue here. While Escort argues that a hearing would help the Court understand how Fleming narrowed his patent language during the prosecution of his patents, the Court finds that these issues can be resolved on the briefs and supporting materials that have been submitted by the parties. Accordingly, the Court will grant the motion.

**ORDER**

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to vacate *Markman* hearing (docket no. 78) is GRANTED and the hearing set for November 8, 2013, is VACATED. The Court will construe the patents on the basis of the written submissions already filed.



DATED: October 30, 2013

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill  
Chief Judge  
United States District Court