

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 07-cv-01779-REB-CBS

NAUTILUS, INC.,

Plaintiff,

vs.

I M & M EXERCISE EQUIPMENT, INC., d/b/a EXTREME FITNESS

Defendant.

ORDER FOR BRIEFING ON *MARKMAN* ISSUES

Blackburn, J.

This matter is before the court *sua sponte*. In this patent infringement action, the court recognizes the need first to construe the claims of the patents before the case properly can proceed to resolution by trial, summary judgment, or otherwise.

Therefore, I establish the following briefing schedule to govern resolution of these matters.

IT IS ORDERED as follows:

1. That no later than ninety days after the first answer or other response, e.g., motion to dismiss, etc., to the complaint is filed with the court by the defendant in this case, the parties **SHALL FILE** a joint claim construction statement setting forth the construction of claims and terms on which the parties agree and the construction of claims and terms on which the parties disagree for each of the patents at issue;

2. That absent further order of the court, the joint claim construction statement

SHALL BE LIMITED to fifteen (15) pages;

3. That the plaintiff's brief on claim construction **SHALL BE FILED** 30 days after the joint claim construction statement is filed;

4. That the deadlines for filing response and reply briefs **SHALL BE AS PRESCRIBED** under D.C.COLO.LCivR 7.1C;

5. That absent further order of the court, the plaintiff's brief on claim construction and the defendant's response brief **SHALL BE LIMITED** to twenty (20) pages;

6. That the parties **SHALL CONVENE** a telephonic motions' hearing setting conference with the court's administrative assistant, Ms. Susan Schmitz, on **September 28, 2007**, at **10:00 a.m.**, to schedule a time for a possible **Markman** hearing; provided, furthermore, that counsel for the plaintiff shall arrange, initiate, and coordinate the conference call necessary to facilitate the setting conference;

7. That based on the parties' submissions, the court will either rule on the papers, order further briefing, convene a **Markman** hearing, appoint a special master, or take such further action as the court in its discretion deems proper and necessary.

Dated August 28, 2007, at Denver, Colorado.

BY THE COURT:

s/ Robert E. Blackburn
Robert E. Blackburn
United States District Judge