

# EXHIBIT 8

**Bennett, Jennifer D.**

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**From:** Bennett, Jennifer D.  
**Sent:** Thursday, December 10, 2009 8:21 PM  
**To:** 'David Perlson'; Friedman, Marc S.; Charles K Verhoeven  
**Cc:** Chaikovsky, Yar R.; Shin, Jimmy M.; 'Louden, Karen Jacobs'; 'rhorwitz@potteranderson.com'; 'dmoore@potteranderson.com'; 'fmuttamara-walker@potteranderson.com'  
**Subject:** RE: proposed case management order  
**Attachments:** CHILIB2-14832804-v1-redline scheduling order.DOC

[Here it is David.](#)

[Thanks,](#)

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**From:** David Perlson [mailto:davidperlson@quinnemanuel.com]  
**Sent:** Thursday, December 10, 2009 6:34 PM  
**To:** Bennett, Jennifer D.; Friedman, Marc S.; Charles K Verhoeven  
**Cc:** Chaikovsky, Yar R.; Shin, Jimmy M.; 'Louden, Karen Jacobs'; 'rhorwitz@potteranderson.com'; 'dmoore@potteranderson.com'; 'fmuttamara-walker@potteranderson.com'  
**Subject:** RE: proposed case management order

[Jennifer, can you send as a redline? I can't tell what was changed. Thanks](#)

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**From:** Bennett, Jennifer D. [mailto:jbennett@sonnenschein.com]  
**Sent:** Thursday, December 10, 2009 6:25 PM  
**To:** David Perlson; Friedman, Marc S.; Charles K Verhoeven  
**Cc:** Chaikovsky, Yar R.; Shin, Jimmy M.; Louden, Karen Jacobs; rhorwitz@potteranderson.com; dmoore@potteranderson.com; fmuttamara-walker@potteranderson.com  
**Subject:** RE: proposed case management order

[David,](#)

[Please find attached for your review a revised Scheduling Order based on your comments \(accepting some and denying others.\)](#)

[Thanks,](#)

Jennifer D. Bennett   
 Sonnenschein Nath & Rosenthal LLP  
 jbennett@sonnenschein.com  
 www.sonnenschein.com

**Sonnenschein.**  
 SONNENSCHN NATH & ROSENTHAL LLP

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**From:** David Perlson [mailto:davidperlson@quinnemanuel.com]  
**Sent:** Sunday, December 06, 2009 4:30 PM  
**To:** Friedman, Marc S.; Charles K Verhoeven  
**Cc:** Bennett, Jennifer D.; Chaikovsky, Yar R.; Shin, Jimmy M.; 'Louden, Karen Jacobs'; 'rhorwitz@potteranderson.com'; 'dmoore@potteranderson.com'; 'fmuttamara-walker@potteranderson.com'  
**Subject:** RE: proposed case management order

Apologies Marc. Had thought I would have you redline by now, but I have had a few briefs to get out last week and was out sick Friday. Of course, now I head out to DC for two days but then am back the rest of the week. I will get you redline by Wednesday if not before. My redlines though would most likely just address any scheduling conflicts and some discovery points (and perhaps try to add in some additional time to dates to account for claim construction ruling).

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**From:** Friedman, Marc S. [mailto:mfriedman@sonnenschein.com]  
**Sent:** Saturday, December 05, 2009 12:59 PM  
**To:** David Perlson; Charles K Verhoeven  
**Cc:** Bennett, Jennifer D.; Chaikovsky, Yar R.; Shin, Jimmy M.; Louden, Karen Jacobs; rhorwitz@potteranderson.com; dmoore@potteranderson.com; fmuttamara-walker@potteranderson.com  
**Subject:** RE: proposed case management order

David, What is the ETA for our receipt of your proposed changes, if any? We are required to have a joint order submitted (assuming we can reach agreement) by December 14. Marc

Marc S. Friedman   
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 mfriedman@sonnenschein.com  
 www.sonnenschein.com

**Sonnenschein.**  
 SONNENSCHN NATH & ROSENTHAL LLP  
 1221 Avenue of the Americas  
 New York, NY 10020-1089

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**From:** David Perlson [mailto:davidperlson@quinnemanuel.com]  
**Sent:** Tuesday, December 01, 2009 5:30 PM  
**To:** Friedman, Marc S.; Charles K Verhoeven  
**Cc:** Bennett, Jennifer D.; Chaikovsky, Yar R.; Shin, Jimmy M.; Louden, Karen Jacobs; rhorwitz@potteranderson.com; dmoore@potteranderson.com; fmuttamara-walker@potteranderson.com  
**Subject:** RE: proposed case management order

Thanks Marc. We are reviewing now and will suggest a time to meet when we circulate proposed changes

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**From:** Friedman, Marc S. [mailto:mfriedman@sonnenschein.com]  
**Sent:** Tuesday, December 01, 2009 4:51 AM  
**To:** Charles K Verhoeven; David Perlson  
**Cc:** Bennett, Jennifer D.; Chaikovsky, Yar R.; Shin, Jimmy M.; Louden, Karen Jacobs; rhorwitz@potteranderson.com; dmoore@potteranderson.com; fmuttamara-walker@potteranderson.com  
**Subject:** proposed case management order

Gentlemen,

Attached for your review is our proposed case management order. Let me know whether you think any changes are required. If you want, we can schedule a conference call for sometime tomorrow or Thursday.

I look forward to your reply.

Marc

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RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by January 15, 2010, the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before March 15, 2010.

3. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to Magistrate Judge \_\_\_\_\_ for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

4. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production by parties shall be commenced so as to be completed by June 18, 2010.

(b) Maximum of 35 interrogatories, including contention interrogatories, for each side.

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(c) Maximum of 35 requests for admission by each side, not including requests for admission solely regarding authentication of documents for which there shall be no limit.

(d) Maximum of 10 depositions by plaintiff(s) and 10 by defendant(s), excluding expert depositions.

1. For clarity, each seven hours of deposition taken pursuant to Rule 30(b)(6) will constitute one deposition regardless of whether it is for multiple topics.

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2. Depositions shall not commence before June 25, 2010.

3. Each of the named inventors may be deposed for twelve (12) hours. [Will Plaintiff be producing the inventor who resides in Germany? Yes

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(e) All fact discovery shall be completed by - January 21, 2011.

(f) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the party with the burden of proof on the issue the expert is offered thirty (30) days after the issuance of the Court's Markman decision. Rebuttal reports are due thirty (30) days from the date Opening Reports are due.

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(g) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from the day rebuttal expert reports are due, unless otherwise agreed in writing by the parties or ordered by the Court.

(h) Any party relying on opinion of counsel in defense of a charge of willfulness shall produce the opinions by October, 15, 2010. The parties may thereafter serve additional requests for production of documents relating to any resulting waiver of privilege.

**5. Non-Case Dispositive Motions.**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at:  
<http://www.ded.uscourts.gov/JJFmain.htm>

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by-email at:  
jjf\_civil@ded.uscourts.gov

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before July 16, 2010.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before May 20, 2011. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The parties shall follow the Court's procedures for summary judgment motions which is available on the Court's website at:

<http://www.ded.uscourts.gov/JJFmain.htm>

8. **Markman.** A Markman Hearing, if necessary, will be held in October of 2010. [We have conflict on this date, will need to suggest alternate date. We suggest changing to just the month, this way the Court can pick a date that works on its calendar] The parties shall identify and exchange their contentions no later than July 16, 2010. Opening claim construction briefs must be filed by August 13, 2010. Answering claim construction briefs must be filed by September 17, 2010.

The parties will conduct an in-person and/or DVD technical tutorial in conjunction with the Markman hearing. The Court,

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after reviewing the briefing, will allocate time to the parties for the hearing. The parties shall exchange materials (including exhibits, DVDs and demonstratives) to be used during the Markman hearing/tutorial no later than 48 hours prior to the hearing/tutorial.

**9. Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on procedures for filing non-dispositive motions in patent cases. Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at:

jjf\_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

**11. Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

**Deleted: 10. Separation of Issues.** The issues of infringement, invalidity and unenforceability, will be separated from the issues of willfulness and damages for purposes of discovery and trial. This Scheduling Order shall apply to the issues of infringement and invalidity and a new schedule will be issued, as appropriate, to address the issues of willfulness and damages.¶  
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\_\_\_\_\_  
DATE

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UNITED STATES DISTRICT JUDGE

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