IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

BALIVI CHEMICAL CORPORATION,   )
)   Case No. CV-07-353-S-BLW
          Plaintiff,   )
)   **ORDER**
     v.   )
)
JMC VENTILATION REFRIGERATION,)
LLC, a Washington Limited Liability   )
Company, JMC ENTERPRISES, INC., a   )
Washington Corporation and JOEL   )
MICKA, an Individual,   )
)
         Defendants.   )
_____)

      The Court has before it competing Patent Construction Schedules based on

the benchmark dates set by the Northern District of California Local Rules for

proceeding to a *Markman* hearing. The Court's staff conferred with counsel on the

relative merits of the competing plans, and there was a discussion of applying the

schedule set here to *1,4Group v. JMC*, Civ. No. 07-354-S-BLW.

      The Court has decided not to apply this schedule to the *1,4Group* case at this

time. If the cases are consolidated, the Court will take up the question then

whether the schedules should be identical. The hearing on the pending motion for

consolidation is set for January 4, 2008.

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The Court has also decided to adopt the more expedited of the two schedules. While the defendants' choice (Exhibit A) proposed 181 days until the final *Markman* brief, the Court finds the better choice is plaintiff's proposal (Exhibit A) that reaches the final brief deadline after only 122 days.

The Court will set the *Markman* hearing for May 27, 2008, at 9:00 a.m. The Court has allotted three hours for the hearing, assuming it will be evidentiary in nature.
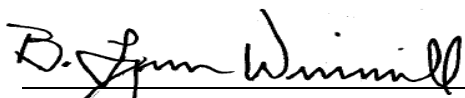
ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that Exhibit B (attached to Docket No. 33) is APPROVED as the Patent Construction Schedule in this case.

IT IS FURTHER ORDERED, that a *Markman* hearing be held on **May 27, 2008, at 9:00 a.m. to noon** in the James A. McClure Federal Building and U.S. Courthouse in Boise, Idaho.

DATED: **December 20, 2007**

Honorable B. Lynn Winmill
Chief U. S. District Judge

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