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April 22, 2014

VIA E-MAIL AND ECF

Honorable Allan L. Gropper
alg.chambers@nysb.uscourts.gov
United States Bankruptcy Judge
United States Bankruptcy Court,
Southern District of New York
One Bowling Green
New York, New York 10006

Re: *In re Eastman Kodak Company, et al.*; Case No. 12-10202 (ALG); *Ricoh Company, Ltd. et al., v. Eastman Kodak Company*, Adv. Proc. No. 13-01332 (ALG)

Dear Judge Gropper:

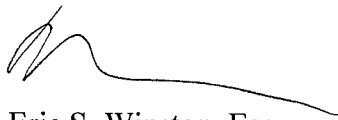
We represent the plaintiffs, Ricoh Company, Ltd. and Ricoh Americas Corporation (together, "Ricoh"), in the above referenced adversary proceeding and the same parties, as creditors, in the above referenced chapter 11 cases. Pursuant to S.D.N.Y. L.B.R. 9076-1, we write to request a scheduling conference in the above referenced adversary proceeding; the parties in interest are Ricoh and the debtors (collectively, "Kodak") in the above referenced chapter 11 cases. The purpose of this proposed status conference is to request that the Court establish a case management order; a copy of the proposed case management order is attached to this letter as Exhibit A.

In accord with S.D.N.Y. L.B.R. 9076-1, Ricoh sent a copy of this proposed order, along with a letter requesting comments and suggesting that the parties meet and confer regarding the same, to Kodak on March 7, 2014. Kodak has not commented on the order; it has, however, recently indicated that it will move to withdraw the reference for this adversary proceeding—a motion that Ricoh anticipates opposing. Ricoh seeks establishment of this case management order, notwithstanding Kodak's stated intent to move to withdraw the reference, due to the long-



pending nature of this action and Ricoh's desire to move the case forward as expediently as possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Eric S. Winston', with a long horizontal flourish extending to the right.

Eric S. Winston, Esq.

cc: Brian Glueckstein, Esq.
David Eiseman, Esq.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
In re:	:
	:
	:
EASTMAN KODAK COMPANY, <u>et al.</u> ,	: Chapter 11
	: Case No. 12-10202 (ALG)
	:
	: (Jointly Administered)
	:
Debtor(s)	:
-----X	
RICOH COMPANY, LTD., and	:
RICOH AMERICAS CORPORATION	:
	:
	:
Plaintiff(s),	:
	: Adv. Proc. No. 13-1332 (ALG)
- against -	:
	: CASE MANAGEMENT
EASTMAN KODAK COMPANY,	: & SCHEDULING ORDER
	:
Defendant(s).	:
	:
-----X	

This Case Management and Scheduling Order is entered by the Court, following a Scheduling Conference held on _____, 2014, in accordance with Fed. R. Civ. P. 16(b) and 26(f), as incorporated in this adversary proceeding by Fed. R. Bankr. P. 7016 and 7026.

1. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within sixty (60) days from the date of this Order.

2. Initial disclosure pursuant to Fed. R. Civ. P. 26(a)(1), as incorporated in this adversary proceeding by Fed. R. Bankr. P. 7026, shall be completed not later than fourteen (14) days from the date of this Order.

3. All fact discovery shall be completed no later than 240 days from the date of this Order.

4. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure (“Civil Rules”), Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), Local Patent Rules of the District Court for the Southern District of New York (“Local Patent Rules”), and the Local Rules of the Bankruptcy Court for the Southern District of New York (“Local Bankruptcy Rules”).

5. Expert discovery

a. All expert discovery shall be completed no later than sixty (60) days after the issuance of the Court’s ruling on claim construction.

b. Not later than thirty (30) days prior to the date in paragraph 3, i.e., the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) a party which bears the burden of proof on a particular issue shall serve its opening expert report(s) on that issue before the party not bearing the burden of proof shall serve its responsive expert report(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 5(a).

6. Patent specific exchanges and dates

a. Not later than forty-five (45) days after the Initial Scheduling Conference, a party claiming patent infringement must serve on all parties a “Disclosure

of Asserted Claims and Infringement Contentions,” which identifies for each opposing party, each claim of each patent-in-suit that is allegedly infringed and each product or process of each opposing party of which the party claiming infringement is aware that allegedly infringes each identified claim.

b. Not later than forty-five (45) days after service of the “Disclosure of Asserted Claims and Infringement Contentions,” each party opposing a claim of patent infringement must serve upon all parties its “Invalidity Contentions,” if any. Invalidity Contentions must identify each item of prior art that the party contends allegedly anticipates or renders obvious each asserted claim, and any other grounds of invalidity, including any under 35 U.S.C. § 101 or § 112, or unenforceability of any of the asserted claims.

c. Not later than forty-five (45) days after service of Invalidity Contentions, the parties shall cooperate and jointly file a Joint Disputed Claim Terms Chart listing the disputed claim terms and phrases, including each party’s proposed construction, and cross-reference to each party's identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures under Local Rules 6 and 7.

d. Not later than thirty (30) days after filing of the Joint Disputed Claim Terms Chart pursuant to Local Patent Rule 11, the party asserting infringement, or the party asserting invalidity if there is no infringement issue present in the case, must serve and file an opening claim construction brief and all supporting evidence and testimony.

e. Not later than thirty (30) days after service of the opening claim construction brief, the opposing party must serve and file a response to the opening claim construction brief and all supporting evidence and testimony.

f. Not later than seven (7) days after service of the response, the opening party may serve and file a reply solely rebutting the opposing party's response.

g. The Court shall hold a Markman Hearing on _____.

h. Not later than one (1) week before the Markman Hearing date scheduled by the Court, the parties shall exchange technology tutorial materials and provide those materials to the Court.

i. Not later than thirty (30) days after entry of an order ruling on claim construction, each party that will rely on an opinion of counsel as part of a defense to a claim of willful infringement or inducement of infringement, or that a case is exceptional, must produce or make available for inspection and copying the opinion(s) and any other documents relating to the opinion(s) as to which attorney-client or work product protection has been waived as a result of such production.

6. Motions

a. All motions and applications shall be governed by the Civil Rules, Bankruptcy Rules and Local Bankruptcy Rules, including pre-motion conference requirements. Pursuant to the authority provided by Fed. R. Civ. P. 16(b)(2), a motion for summary judgment will be deemed untimely unless a request for a pre-motion conference relating thereto (*see* Local Bankruptcy Rule 7056-1) is made in writing within fourteen (14) days after the close of fact discovery (*see* paragraph 3 hereof).

b. All dispositive motions (including motions for summary judgment and *Daubert* motions) shall be filed not later than thirty (30) days after the expert discovery cutoff.

c. Motion papers shall be filed promptly after service. All motions, and courtesy copies of motions, shall include a table of contents listing all affidavits and exhibits. Affidavits and exhibits shall be clearly identified by tabs on both the original and courtesy copies. Exhibits shall be marked sequentially such that no exhibit number or letter repeats, regardless of the affidavit to which it is attached. Exhibits for plaintiffs should be marked by numbers; exhibits for defendants should be marked by letters.

d. Two courtesy copies of all motions papers shall be delivered to chambers as soon as practicable after filing.

e. **Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. All memoranda shall be double-spaced, 12-point font, with 1” margins. Memoranda of 10 pages or more shall contain a table of contents and a table of authorities.**

f. Prior to filing a motion, counsel for the moving party shall contact my Courtroom Deputy, Jacqueline DePierola, to obtain a hearing date for the motion.

7. All counsel must meet face-to-face to discuss settlement or use of alternative dispute resolution (“ADR”) within forty-five (45) after the date of this Order and, again, within forty-five (45) after the close of fact discovery. Counsel shall advise the Court promptly if they agree to use ADR to try to resolve some or all of the claims in

the case. The use of any ADR mechanism does not stay or modify any date in this Order unless the Court agrees on the application of any party.

8. Counsel shall submit a proposed Joint Pretrial Conference Order within sixty (60) days after the close of expert discovery. The proposed Joint Pretrial Conference Order shall be prepared using the form of order that will be provided to counsel by my Courtroom Deputy or law clerks.

9. In the event of any discovery dispute in this action, counsel shall first meet and confer in an effort to resolve the dispute. If counsel are unable to resolve the dispute, counsel for any party seeking assistance from the Court shall, before filing any discovery motion, arrange a conference call with the Court with all counsel involved in the dispute. The Court will endeavor to resolve the dispute without the filing of any discovery motions.

10. The Final Pretrial Conference is scheduled for _____.

11. The Trial will begin on _____.

12. This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend any deadline established by this Order shall be made in a written application no less than five (5) days prior to the expiration of the date sought to be extended.

Dated: [date]
New York, New York

Allan L. Gropper
United States Bankruptcy Judge