

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

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In the Matter of )  
)  
CERTAIN ADJUSTABLE KEYBOARD ) Investigation No. 337-TA-670  
SUPPORT SYSTEMS AND )  
COMPONENTS THEREOF )

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Order No. 9: Granting In Part Complainant's Motion To Amend Procedural Schedule  
And Modifying Other Dates In Current Procedural Schedule

On August 7, 2009, complainant Humanscale Corporation (Humanscale) moved to amend the procedural schedule as set forth in attached Exhibit 7 and to shorten time to August 11, 2009, in which to respond to the portion of the motion relating to amending the procedural schedule.<sup>1</sup> (Motion Docket No. 670-3.)

Respondents CompX, in a response dated August 11, 2009, opposed the pending motion on the grounds that complainant has not shown "good cause" to modify the current procedural schedule and because complainant's proposed schedule would prejudice respondents CompX, although to the extent that the administrative law judge decides to amend the current procedural schedule, an alternate amendment to the schedule was attached to the opposition as Exhibit 2<sup>2</sup>.

Complainant represented in its motion that the staff on August 3, 2009, stated that it did not have any specific objection to an extension, although at the time the parties had not reached

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<sup>1</sup> Respondents CompX International Inc. and Waterloo Furniture Components Limited d/b/a CompX Waterloo (CompX), in response to complainant's request to shorten the time for response, in a filing dated August 6, 2009 opposed the request to shorten the response time and further indicated that they intend to oppose the motion to amend the procedural schedule. In view of the substance of the pending motion, the administrative law judge on August 7, granted complainant's request for a shorten time period to respond.

<sup>2</sup> Respondents' counsel by letter dated August 12, 2009, enclosed a Replacement Exhibit 2.

an impasse, and that since the parties reached impasse, the staff was unable to provide comment, due to prior out-of-office obligations.

Complainant, in support of the pending motion, argued that its requested extension of the procedural schedule will allow complainant to obtain any additional follow-up discovery generated from depositions that complainant intends to use to prepare its case. Respondents have not denied that on July 30, 2009, less than one week before the deadline for discovery requests, respondents stated that their corporate designee Corey Boland would be available to testify on August 13, 2009, the day before the close of fact discovery in the current procedural schedule. Also respondents did not deny that their counsel provided the CAD Drawings on August 6, 2009, after the deadline for discovery requests and just a week before the close of fact discovery even though complainant provided its native file CAD Drawings to opposing counsel on June 30, 2009 and had requested that counsel for CompX reciprocate and provide CompX's native file CAD drawings. Also complainant's Motion No. 670-2 to quash filed July 27, 2009 is pending. However, Order No. 8 which issued on August 7, 2009, requested a further filing by complainant no later than the close of business on August 12, 2009.

Respondents have argued that complainant's proposed schedule has rebuttal expert reports due on the same day that expert discovery closes and hence respondents will be prejudiced because they cannot take the depositions of complainant's expert on his rebuttal report; that the proposed procedural schedule will not give respondents the benefit of having read complainant's rebuttal expert report before respondents must submit their list of prior art on which they will rely at the evidentiary hearing; that complainant's proposed schedule requires the exchange of rebuttal expert reports three business days before summary judgment motions are

due, which will “likely” deny respondents the ability to rely on those reports to support any summary judgment motion and “certainly” will deny CompX the ability to depose complainant’s expert on his rebuttal report before any summary judgment of respondents are due; that complainant’s proposed schedule delays the time period where complainant must answer contention interrogatories, including definitely identifying what products are at issue and the asserted claims; and that complainant’s proposed schedule would require respondents to submit their exhibit list a short three business days after receiving complainant’s rebuttal expert report.

While the proposed procedural schedule (Exhibit 7) affects only a limited number of due dates on the current procedural schedule (Order No. 7) and only lengthens certain dates for a limited number of deadlines by approximately two weeks, having considered the arguments of the parties, the administrative law judge finds that complainant has demonstrated good cause for the modification of certain dates of the current procedural schedule. However he further finds that certain other dates of the current procedural schedule should be modified. Thus as of the date of this order the proposed new dates from complainant are in effect with the exception that the discovery completion date is 8/25/09 and not the proposed date of 8/28/09, the cut-off date for responses to contention interrogatories is 8/26/09 and not the proposed date of 9/3/09, the identification of tentative witnesses who will testify at the hearing, with a brief description of their relationships to the party is 9/7/09 proposed by respondents and not 9/14/09 proposed by complainant, the exchange of initial expert reports is 9/7/09 proposed by respondents and not 9/14/09 proposed by complainant, submission of statements regarding the use of witness statements in lieu of live direct testimony, and statements whether any party intends to offer expert reports into evidence is 9/10/09 proposed by respondents and not 9/17/09 proposed by

complainants, the exchange of rebuttal expert reports is 9/18/09 proposed by respondents and not 9/25/09 proposed by complainant, the expert discovery cut-off and completion date is 9/30/09 and not 9/25/09 as recited in the current procedural schedule, the cut-off date for any motion for summary determination is 10/2/09 and not 10/1/09 as recited in the current procedural schedule, and the exchange of exhibit lists among the parties is 10/5/09 and not 10/1/09 as recited in the current procedural schedule.

Based on the foregoing, the pending motion is granted and other dates in the current procedural schedule are modified to the extent indicated.

On August 12, 2009, each of the parties received a copy of this order.

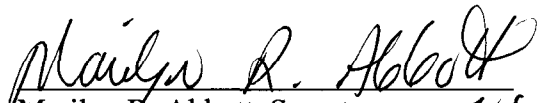


Paul J. Luckern  
Chief Administrative Law Judge

Issued: August 12, 2009

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached Order has been served by hand upon the Commission Investigative Attorney, Heidi E. Strain, Esq., and the following parties as indicated, on August 13, 2009.

  
Marilyn R. Abbott, Secretary *JW*  
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CERTAIN ADJUSTABLE KEYBOARD SUPPORT SYSTEMS  
AND COMPONENTS THEREOF

Inv. No. 337-TA-670

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