

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: IMPLEMENTATION OF)
PATENT PILOT PROGRAM) Misc. No. 2:11-mc-00283
)

ORDER

WHEREAS, this Court has been designated as a District Court in which the Pilot Program in Certain District Courts related to patents and plant variety protection, Pub. L. No. 111-349, 124 Stat. 3674, 28 U.S.C. § 137 ("Patent Pilot Program") will be carried out; and

WHEREAS the Court's participation in the Patent Pilot Program is subject to certain statutorily required procedures and processes; and

WHEREAS the Court has established internal operating procedures to comply with these statutory requirements and to ensure the efficient and orderly administration of the Patent Pilot Program;

NOW THEREFORE IT IS ORDERED as follows:

1) The Chief Judge designates Judges Joy Flowers Conti, Mark Hornak, Cathy Bissoon, Susan Paradise Baxter, Marilyn Horan, Nicholas Ranjan, William Stickman and Stephanie Haines (hereinafter the "Designated Patent Judges") to hear cases in which one or more issues arising under any Act of Congress relating to patents or plant variety protection are required to be decided (other than a "false marking" case under 35 U.S.C. § 292) (hereinafter "Patent Cases"). Any other District Judge wishing to serve as a Designated Patent Judge shall so notify the Chief Judge in writing;

2) Commencing on September 19, 2011, all Patent Cases that are newly filed in, or thereafter transferred to, this Court will be assigned randomly to an Article III Judge pursuant to Local Civil Rule 40(C);

3) If a Patent Case is randomly assigned to a District Judge who is not a Designated Patent Judge, that District Judge may decline the assignment. A District Judge wishing to decline the assignment of a Patent Case must do so within seven (7) days of receiving the assignment, and must do so by entering an Order Declining Assignment in the format reflected in Attachment A to this Order. The case will remain on the docket of the initially assigned District Judge unless or until the assignment is declined within this seven (7) day period;

4) Upon entry of an Order Declining Assignment, the Clerk of Court will reassign the case to a Designated Patent Judge by using a separate electronic assignment deck comprised only of the Designated Patent Judges (the "Patent Assignment Deck"). Each Designated Patent Judge's name will appear in the Patent Assignment Deck an equal number of times (subject to any authorized case assignment adjustment as to the Chief Judge). The Clerk will randomly draw a card from the Patent Assignment Deck, thus removing one of that Designated Patent Judge's cards from the deck. The Patent Assignment Deck will be automatically shuffled after each case assignment draw, and will be replenished when it is nearing exhaustion, thereby ensuring a truly random selection. Patent cases docketed in the Pittsburgh, Erie and Johnstown Divisions will be reassigned only to Designated Patent Judges assigned to such applicable Division;

5) Magistrate Judges are not eligible to serve as Designated Patent Judges. However, a Designated Patent Judge, in his or her discretion, and after consultation with the parties, may assign pre-trial management duties to a randomly selected Magistrate Judge. If a Magistrate Judge conducts pre-trial management of a Patent Case, the Designated Patent Judge will nevertheless decide all dispositive motions. In addition, the Designated Patent Judge will preside over the

Markman hearing, and any related proceedings, such as technical tutorials, and will issue the claim construction opinion. However, the Court's Local Patent Rules regarding the use of special masters for purposes of claim construction remain unchanged and fully applicable during the Patent Pilot Program;

6) When a Patent Case is closed by this Court's Clerk of Court and later re-filed in an identical, or nearly-identical, form, the re-filed case shall not be eligible for transfer to a Designated Patent Judge unless the previous case had been assigned to a Designated Patent Judge;

7) Should a Patent Case be retained by a non-Designated Patent Judge who thereafter is unable to preside over the case for whatever reason, including recusal or disqualification, said Patent Case shall be randomly transferred to another non-Designated Patent Judge;

8) A Designated Patent Judge must accept a Patent Case randomly assigned to him or her pursuant to Paragraph 4 above, unless said Judge must recuse. In such event, the Patent Case will be randomly reassigned to another Designated Patent Judge;

9) If a motion to disqualify a Designated Patent Judge is granted, that Patent Case will be randomly reassigned to another Designated Patent Judge;

10) The Chief Judge, in conjunction with the Clerk of Court, has the authority to implement a process for caseload equalization between the Designated Patent Judges and the non-Designated Patent Judges.

11) This Order supersedes all prior designations of Designated Patent Judges as to such designations.



Mark R. Hornak
Chief United States District Judge

Dated: October 18, 2019

ATTACHMENT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

[PLAINTIFF])
)
 Plaintiff)
) Civil Action No.
 v.)
)
 [DEFENDANT],)
)
 Defendant.)

ORDER DECLINING ASSIGNMENT

IT IS HEREBY ORDERED, this ___ day of _____, 20___, that, in accordance with Section 1(a)(1)(C) of Public Law 111-349, Pilot Program in Certain District Courts, the undersigned judge declines to accept assignment of this case.

United States District Judge