



## **LOCAL PATENT RULES**

**APPENDIX LPR 2.1**

Effective: December 5, 2015

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

Plaintiff v. Defendant. ) Civil Action No.

**MODEL SCHEDULING ORDER FOR USE IN PATENT CASES**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

IT IS ORDERED that this action is placed under the Local Patent Rules of this Court for pretrial proceedings and all provisions of these Rules will be strictly enforced.

IT IS FURTHER ORDERED that counsel shall confer with their clients prior to all scheduling, status, or pretrial conferences to obtain authority to participate in settlement negotiations which may be conducted or ordered by the Court.

IT IS FURTHER ORDERED that compliance with provisions of Local Rule 16 and the Local Patent Rules shall be completed as follows:

- (1) The parties shall move to amend the pleadings or add new parties by \_\_\_\_\_;
- (2) The party claiming patent infringement must serve on all parties a Disclosure of Asserted Claims and Infringement Contentions by \_\_\_\_\_; *[30 calendar days after the Initial Scheduling Conference; LPR 3.2]*
- (3) The party claiming non-infringement and/or invalidity must serve on all parties a Disclosure of Non-infringement and/or Invalidity Contentions by \_\_\_\_\_; *[14 days after service of Disclosure of Asserted Claims and Infringement Contentions; LPR 3.4]*
- (4) Each party will simultaneously exchange Proposed Claim Terms and Phrases for Construction by \_\_\_\_\_; *[14 days after service of the Non-infringement and/or Invalidity Contention; LPR 4.1(a)]*
- (4a) Each party will simultaneously exchange a preliminary proposed construction of each term or phrase by \_\_\_\_\_; *[not later than 14 days after the exchange of proposed claim terms and phrases; LPR 4.1(b)]*
- (5) The parties shall meet and confer by \_\_\_\_\_ to identify claim terms and phrases that are in dispute, and claim terms and phrases that are not

in dispute and prepare and file a Joint Disputed Claim Terms Chart and Prehearing Statement. Each party shall also file with the Joint Disputed Claim Terms Chart and Prehearing Statement an appendix containing a copy of each item of intrinsic evidence cited by the party in the Joint Disputed Claim Terms Chart; *[Not later than 7 days after the exchange of preliminary constructions; LPR 4.2]*

(6) It is hereby Ordered that \_\_\_\_\_ is appointed Special Master pursuant to Federal Rule of Civil Procedure 53 to serve in accordance with the LPRs in this action;

(7) The parties have agreed to submit this case to \_\_\_\_\_ *[Early Neutral Evaluation, Mediation, or Arbitration]*. As such, it is hereby Ordered that \_\_\_\_\_ is/are appointed as the *[Early Neutral Evaluator, Mediator, or Arbitrator]* to serve in accordance with the ADR Policies and Procedures in this action;

(8) The above-mentioned alternative dispute resolution shall take place on \_\_\_\_\_ and on such other dates as the parties may agree; *[if Mediation is selected, then the deadline shall be 60 calendar days after the Court's decision on claim construction, unless the Court rules otherwise; LPR 2.1]*

(9) Plaintiff shall file and serve an Opening Claim Construction Brief and an identification of extrinsic evidence by \_\_\_\_\_; *[30 calendar days after filing of the joint disputed claim terms chart; LPR 4.3]*

(10) The Opposing Party shall file and serve a response to the Opening Claims Construction Brief, an identification of extrinsic evidence and any objections to extrinsic evidence by \_\_\_\_\_; *[21 days after service of the opening claim construction brief; LPR 4.3]*

(11) The opening party may serve and file a Reply directly rebutting the opposing party's Response, and any objections to extrinsic evidence by \_\_\_\_\_; *[14 days after opposing party's response is served (or 21 days if the opposing party's response includes testimony from a lay or expert witness); LPR 4.3]*

(12) If the Opposing Party bears the burden of proof on infringement, it may file a Surreply directly rebutting the opening party's Reply by \_\_\_\_\_; *[14 days after opening party's Reply is served; LPR 4.3]*

(13) The Court will conduct a hearing on the issue of Claim Construction on \_\_\_\_\_;

(14) The Report and Recommendation of the Special Master on the issue of claim construction shall be due on \_\_\_\_\_; *[Unless otherwise ordered by the Court, 30 calendar days after the hearing on claim construction; LPR 4.5]*

(15) The parties shall complete fact discovery by 60 days after the Court issues a ruling on claim construction, and all interrogatories, depositions, requests for admissions, and requests for production shall be served within sufficient time to allow responses to be completed prior to the close of discovery;

(16) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which each bears the burden of proof by \_\_\_\_\_, [30 calendar days after the normal close of discovery pursuant to the Court's case management order, or the court's ruling on claim construction, whichever is later; LPR 5.1]

(17) Each party shall make its initial expert witness disclosures, as required under Rule 26, on the issues on which the opposing party bears the burden of proof by \_\_\_\_\_; [30 calendar days after the first round of expert disclosures; LPR 5.1]

(18) Rebuttal expert witness disclosures are to be made by \_\_\_\_\_; [14 days after second round of expert disclosures; LPR 5.1]

(19) Expert Depositions, if any, shall begin by \_\_\_\_\_; [within 7 calendar days after service of the rebuttal expert reports] and be completed by \_\_\_\_\_; [30 calendar days after commencement of deposition period; LPR5.2]

(20) Motions for summary judgment with evidentiary material and accompanying brief, if appropriate, shall be filed by \_\_\_\_\_, and responses to such motions shall be filed within \_\_\_\_\_ calendar days thereafter. Reply and surreply briefs shall not be filed unless approved/requested by the Court;

(21) Plaintiff's pretrial narrative statement shall comply with Rule 16.1.C.1, and be filed by \_\_\_\_\_;

(22) Defendant's pretrial narrative statement shall comply with Rule 16.1.C.2, and be filed by \_\_\_\_\_;

(23) The parties shall not amend or supplement their pretrial narrative statements without leave of Court;

(24) All parties shall file an indication whether or not they are willing to proceed to trial in front of a Magistrate Judge by \_\_\_\_\_;

(25) The Court shall conduct a pretrial conference on \_\_\_\_\_ 20\_\_\_\_\_, at \_\_\_\_\_ (time) Room \_\_\_\_\_ U.S. Post Office & Courthouse, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania, and all trial counsel must attend; and

(26) The trial shall commence on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ (time), Courtroom No. \_\_\_\_\_.

\_\_\_\_\_  
United States District Judge

cc: All Counsel of Record