

**LOCAL PATENT RULES  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

**October 22, 2009**

**I. Scope of the Rules**

**1.1 Title**

These are the Local Patent Rules for the United States District Court for the Northern District of Ohio. They should be cited as “L. P. R. \_\_\_\_.”

**1.2 Scope and Construction**

These rules apply to all civil actions filed in, removed, or transferred to this Court which allege infringement of a patent in a complaint, counterclaim, cross-claim, or third party claim, or which seek a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable. The Local Civil Rules of this Court shall also apply to such actions, except to the extent that they are inconsistent with these Local Patent Rules. If the filings or actions in a case do not trigger the application of these Local Patent Rules under the terms set forth herein, the parties shall, as soon as such circumstances become known, meet and confer for the purpose of agreeing on the application of these Local Patent Rules to the case and promptly report the results of the meeting to the Court.

**1.3 Commencing Discovery**

For all actions to the Local Patent Rules, discovery is permitted to begin upon the filing of the Answer or a motion under Fed. R. Civ. P. 12 (each, a “Responsive Pleading”) absent an order from the Court stating otherwise.

**1.4 Cases Received After the Responsive Pleading**

If the Court obtains jurisdiction over an action subject to the Local Patent Rules after a Responsive Pleading has been filed, the time for serving disclosures set forth in L. P. R. 1.4, 3.1, 3.5, 3.8, and 4.1 shall commence from the day the Court acquires jurisdiction, rather than the date the Responsive Pleading is filed.

**1.5 Modification of Obligations; Case Management Notice**

The Court may modify the obligations or deadlines set forth in these Local Patent Rules based on the circumstances of any particular case, including, without limitation, the simplicity or complexity of the case as shown by the patents, claims, products, or parties involved. Such modifications shall, in most cases, be made at the Case Management Conference, but may be made at other times by the Court *sua sponte* or upon a showing of good cause.

Local Patent Rules - Northern District of Ohio

No later than five (5) business days after the filing of the Responsive Pleading, the parties shall jointly file a Notice via the Court's Electronic Filing System (the "Case Management Notice") informing the Court whether (a) the action is ripe to be scheduled for a Case Management Conference at the Court's earliest convenience, (b) the requirements under these Local Patent Rules should be modified in any way and the requested modifications, and (c) any other case management issues identified that would impact any party's ability to conform to these Local Patent Rules.

Before submitting the Case Management Notice, the parties shall meet and confer to try to reach an agreement upon any issues to be raised with the court in the Case Management Notice.

**1.6 Effective Date**

These Local Patent Rules take effect on October 22, 2009. For actions pending before the effective date, the Court will confer with the parties and apply these rules as the Court deems practicable.

**II. General Provisions**

**2.1 Governing Procedure**

(a) **Planning Meeting.** The parties shall confer no less than ten days before the Case Management Conference to discuss and address in the Joint Planning Report the topics set forth in Fed. R. Civ. P. 26(f) and LR 16.3(b)(3), as well as the following topics:

- (1) Any modification to the deadlines set by these Local Patent Rules;
- (2) Any anticipated motions that might affect the deadlines set by these Local Patent Rules, including motions for preliminary injunction and to add or substitute parties, and a proposed briefing schedule;
- (3) Any issues that might be the proper subject of an early motion for summary judgment or partial summary judgment;
- (4) The field of the claimed invention(s), claims asserted, number of claim terms to be construed, and the allegedly infringing activity or product;
- (5) Any modification to the limits on interrogatories and/or depositions set forth in the Federal Rules of Civil Procedure;
- (6) Any deviations from the form Patent Protective Order set forth in Appendix A to these Local Patent Rules;
- (7) The format of the Claim Construction Hearing, including whether the Court will hear live testimony, the order of presentation, and the estimated length of the hearing;
- (8) Whether the parties will agree to the electronic exchange of pleadings, notices, discovery, and other mandated disclosures not otherwise served electronically via the Court's electronic filing system;
- (9) The susceptibility of this action to resolution by Alternative Dispute Resolution; and
- (10) The appointment of a Special Master.

Local Patent Rules - Northern District of Ohio

(b) **Joint Planning Report.** No later than five days before the Case Management Conference, the plaintiff, on behalf of all parties, must file with the Court a Joint Planning Report in the form provided in Appendix B to these Local Patent Rules or in any other form ordered by the Court. Statements made by the parties in the Joint Planning Report will be used for case management purposes only and shall not be used to limit or otherwise restrict a party's ability to seek relief from the Court at a later date with respect to issues addressed or not addressed in the Joint Planning Report.

(c) **Case Management Conference.**

(1) **Agenda.** The general agenda for the Case Management Conference is set by LR 16.3(b). The parties also should be prepared to discuss with the Court all of the matters addressed in the parties' Joint Planning Report, including the status of settlement discussions and the utilization of Alternative Dispute Resolution methods under L.R. 16.4-16.10.

(2) **Technology At Issue.** Each party should be prepared to discuss the technology at issue during the Case Management Conference. This includes the general technology at issue, the patent(s) in suit, and each accused apparatus, product, device, process, method, act, or other instrumentality of each opposing party that is accused of infringing (each, an "Accused Instrumentality"). In addition to the foregoing, each party opposing a claim of infringement is expected to bring a sample or representation (e.g., photographs, video, specifications, etc.) of each Accused Instrumentality.

(3) **Master.** The parties should be prepared to discuss with the Court whether they would consent to the appointment of a master (a Magistrate Judge or otherwise) who would provide assistance to the parties and the Court. Cases for which a master is appointed shall be considered for expedited treatment.

(4) **Attendance by Parties.** All parties, lead counsel, and a representative with full authority for settlement purposes shall attend the Case Management Conference. "Parties" means either the named individuals or, in the case of a corporation or similar legal entity, a person familiar with the facts of the case, including the patented technology or allegedly infringing technology.

## 2.2 Confidentiality

Discovery cannot be withheld on the basis of confidentiality absent Court order. Pending entry of a protective order, discovery and disclosures deemed confidential by a party shall be produced to the adverse party for the eyes of outside counsel of record only, marked "Attorney's Eyes Only – Subject to Protective Order." The discovery and disclosures so marked shall be used solely for purposes of the pending case and shall not be disclosed to the client or any other person.

Local Patent Rules - Northern District of Ohio

Should the parties desire to have a protective order entered in a patent case, they shall present a stipulated protective order for the Court's consideration and entry at the case management conference. In the absence of a stipulated protective order, a party that has designated discovery or disclosures for protection under this Rule or that desires to have a protective order entered in the case shall move the Court for the entry of the Patent Case Protective Order attached as Appendix A to these Rules. Upon entry of a protective order, discovery and disclosures previously designated for protection under this Rule may be redesignated, disclosed, and used in accordance with the provisions of the protective order entered by the Court.

Should a party desire to file materials designated for protection under this Rule with the Court before the entry of a protective order, the materials shall be filed under seal and this Rule shall authorize the Clerk of Court to accept the sealed filing.

**2.3 Relationship to Federal Rules of Civil Procedure and Local Civil Rules for the United States District Court, Northern District of Ohio**

A party may not object to discovery on the ground that it conflicts with or is premature under the Local Patent Rules, except to the following categories of requests and disclosures:

- (a) Requests for a party's claim construction position;
- (b) Requests for the same information required to be disclosed under Local Patent Rules 3.1-3.7; and
- (f) Requesting that an accused infringer identify whether it intends to rely upon the opinion(s) of counsel as a defense against an allegation of willful infringement. Federal Rule of Civil Procedure 26(e)'s requirements concerning the supplementation of disclosure and discovery responses apply to all disclosures required under the Local Patent Rules.

**III. Patent Disclosures**

**3.1. Initial Infringement Contentions.**

Not later than fifteen (15) calendar days after the date the Answer or a motion under Fed. R. Civ. P. 12 ("Responsive Pleading") is filed, a party claiming patent infringement shall serve on all parties Infringement Contentions containing at least the following information:

- (a) Each claim of each patent in suit that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted;
- (b) Separately for each asserted claim, each Accused Instrumentality that each party claiming infringement contends infringes, including the name or model number if known;
- (c) A chart identifying specifically where each limitation of each asserted claim is found within each Accused Instrumentality, including for each limitation that such party

Local Patent Rules - Northern District of Ohio

contends is governed by 35 U.S.C. § 112(6), the identity of the corresponding structure and function and where such structure and function is found in the Accused Instrumentality;

- (d) For each claim which is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer(s) that contribute to or that are inducing direct infringement, including a description of the role of each relevant party if direct infringement is based on the joint acts of multiple parties;
- (e) Whether each limitation of each asserted claim is alleged to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;
- (f) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled; and
- (g) If a party claiming patent infringement alleges willful infringement, the basis for such allegation.

**3.2. Document Production Accompanying Initial Infringement Contentions.**

With the Infringement Contentions, the party claiming patent infringement shall produce to each opposing party or make available for inspection and copying:

- (a) All documents concerning any disclosure, sale or transfer, or offer to sell or transfer of the claimed invention prior to the bar date under 35 U.S.C. § 102(b) and/or the date of invention for the patent in suit;
- (b) All documents evidencing the conception and first reduction to practice of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to L. P. R. 3.1(f), whichever is earlier;
- (c) A copy of the file history for each patent in suit (or so much thereof as is in the possession of the patentee) and any patent(s) or application(s) to which each patent in suit claims priority; and
- (d) All documents evidencing ownership of the patent rights by the party asserting patent infringement.

Nothing in these required disclosures shall be considered an admission that such disclosures are prior art or evidence of prior art under 35 U.S.C. § 102 or § 103.

**3.3. Initial Noninfringement Contentions.**

Not later than thirty (30) days after service upon it of the Infringement Contentions, each party opposing a claim of patent infringement, shall serve on all parties Noninfringement Contentions which shall contain the following information:

- (a) A chart, responsive to the chart required by L. P. R. 3.1(c), that identifies as to each

Local Patent Rules - Northern District of Ohio

identified element in each asserted claim (1) whether such element is present literally or under the doctrine of equivalents in each Accused Instrumentality and, if not, the reason for such denial and the relevant distinctions, and (2) for each limitation that such party contends is governed by 35 U.S.C. § 112(6), the corresponding structure and function, (if different from that identified in L. P. R. 3.1(c)), whether or not such structure and function are found in the Accused Instrumentality, and/or any basis for claiming that such limitation is invalid for indefiniteness; and

- (b) A statement that the proper parties have been served or, if the proper parties have not been served, a statement indentifying the proper parties to the extent they are known.

**3.4. Document Production Accompanying Initial Noninfringement Contentions.**

With its Noninfringement Contentions, the party opposing a claim of patent infringement shall produce or make available for inspection and copying:

- (a) Documents sufficient to support the statement(s) made in the chart required by L. P. R. 3.3(a);
- (b) Document sufficient to evidence the actual parties that make and sell the Accused Instrumentality or any other documents sufficient to support the statement(s) made in response to L. P. R. 3.3(b); and
- (c) Documents sufficient to describe the structure, composition, and/or operation of the Accused Instrumentality.

**3.5. Invalidity and Unenforceability Contentions**

Not later than eighty (80) days after service of the Responsive Pleading, each party asserting that a claim of a patent is invalid or unenforceable, shall serve on all parties its Invalidity and Unenforceability Contentions which shall contain at least the following information:

- (a) The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

Local Patent Rules - Northern District of Ohio

- (b) Whether each item of prior art anticipates each asserted claim or renders it obvious under 35 U.S.C. §102 or §103. If obviousness is alleged, an explanation of why the prior art renders the asserted claim obvious, including an identification of any combinations of prior art showing obviousness;
- (c) For each alleged item of prior art, a chart identifying specifically where each limitation of each asserted claims are found, including for each limitation that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function;
- (d) Any grounds of invalidity based on 35 U.S.C. § 101, or 35 U.S.C. § 112, including invalidity contentions based on written description, enablement, indefiniteness, and/or best mode.
- (e) The grounds for any charge that any of the asserted claims are unenforceable for inequitable conduct, including the identification of any information alleged to have been withheld, misstated, or otherwise misrepresented to the United States Patent Office, the basis for claiming such information was material to patentability, and the basis for claiming that the patentee withheld, misstated, or misrepresented such information with the requisite intent.

**3.6. Document Production Accompanying Invalidity and Unenforceability Contentions.**

With its Invalidity and Unenforceability Contentions, any party opposing a claim of patent infringement shall produce or make available for inspection and copying:

- (a) A copy or sample of the prior art identified pursuant to L. P. R. 3.5(a). To the extent any such item is not in English, an English translation of the portion(s) relied upon shall be produced. The producing party shall separately identify by production number which documents correspond to each invalidity category; and
- (b) All documents supporting any statement made in response to L. P. R. 3.5(e).

**3.7 Validity and Enforceability Contentions.**

Not later than twenty (20) days after service upon it of the Invalidity and Unenforceability Contentions, each party opposing a claim of inequitable conduct and/or invalidity shall serve on all parties Validity and Enforceability Contentions which shall contain the following information:

- (a) A chart, responsive to the chart required by L. P. R. 3.5(c) that identifies each limitation of each asserted claim that is missing from the asserted prior art;
- (b) A responsive statement explaining why the disclosures and statement required by L. P. R. 3.5 (e) do not render the asserted patents unenforceable;
- (c) All documents supporting the disclosures made in L. P. R. 3.7 (a)-(b) to the extent that they have not already been produced.

**3.8 Disclosure Requirements for Patent Cases for Declaratory Judgment of Invalidity**

Local Patent Rules - Northern District of Ohio

In all cases in which a party files a complaint or other pleading seeking a declaratory judgment that a patent is invalid, L. P. R. 3.1-3.4 shall not apply unless and until a claim for patent infringement is made by a party in the Responsive Pleading. If the defendant does not assert a claim for patent infringement in its Responsive Pleading, the party seeking a declaratory judgment of invalidity shall make its required disclosures under L. P. R. 3.5 and 3.6 within thirty (30) days of the Responsive Pleading. All other deadlines and requirements under the Local Patent Rules shall remain the same. This L. P. R. 3.8 shall not apply to cases in which a request for a declaratory judgment that a patent is invalid is filed in response to a complaint for infringement of the same patent.

**3.9 Disclosure Requirements for Patent Cases Arising Under 21 U.S.C. § 355 (commonly referred to as “the Hatch-Waxman Act”).**

The following provision applies to all patents subject to a Paragraph IV certification in cases arising under 21 U.S.C. § 355 (commonly referred to as “the Hatch-Waxman Act”). This provision takes precedence over any conflicting provisions in L. P. R. 3.1 to 3.8 for all cases arising under 21 U.S.C. § 355.

- (a) At or before the Case Management Conference, the Defendant(s) shall produce to Plaintiff(s) the entire Abbreviated New Drug Application or New Drug Application that is the basis of the case in question.
- (b) Not less than fifteen (15) calendar days after the Case Management Conference, the Defendant(s) shall provide to Plaintiff(s) written Invalidity Contentions, for any patents referred to in Defendant(s) Paragraph IV Certification. At a minimum, these Invalidity Contentions should include those items required by L. P. R. 3.5(a-d);
- (c) Any Invalidity Contentions disclosed under L. P. R. 3.9(b) shall be accompanied by the production of any document or thing that each Defendant intends to rely on to show invalidity. At a minimum, this disclosure should comply with L. P. R. 3.6(a).
- (d) Not less than thirty (30) calendar days after the Case Management Conference, the Defendant(s) shall provide to Plaintiff(s) the written basis for their Noninfringement Contentions for any patents referred to in Defendant(s) Paragraph IV Certification which shall include a claim chart as required by L. P. R. 3.3(a) identifying each claim at issue in the case and each limitation of each claim at issue. The claim chart shall specifically identify for each claim which claim limitation(s) are literally absent from the Defendant(s) allegedly infringing Abbreviated New Drug Application or New Drug Application
- (e) Any Noninfringement Contentions disclosed under L. P. R. 3.9(d) shall be accompanied by the production of any document or thing that the Defendant(s) intend to rely on in defense against any infringement contentions by Plaintiff(s), including those items required by L. P. R. 3.4(a).
- (f) Not less than forty-five (45) calendar days after the disclosure of the Noninfringement Contentions as required by L. P. R. 3.9(d), Plaintiff(s) shall provide Defendant(s) with Infringement Contentions for all patents referred to in



Local Patent Rules - Northern District of Ohio

Defendant(s) Paragraph IV Certification, including, at a minimum, those items required by L. P. R. 3.1.

- (g) Any Infringement Contentions disclosed under L. P. R. 3.9(f) shall be accompanied by the production of documents required under L. P. R. 3.2.

**3.10. Amending and Supplementing Contentions; Final Contentions.**

- (a) Unless otherwise ordered by the Court, the parties' contentions and responses shall have the same binding effect on a party as a response to an interrogatory made under Rule 33 of the Federal Rules of Civil Procedure. The parties' disclosures and responses may be amended or supplemented without leave of court until the Final Contentions are due under L. P. R. 3.10(b)-(d); provided, however, that after submission of the exchange of claim terms under L. P. R. 4.1(c), additional claims in the patent(s) in suit may not be asserted without obtaining leave from the Court for good cause shown.
- (b) Each party claiming patent infringement must serve on all parties "Final Infringement Contentions" containing the information required L. P. Rule 3.1 within fifteen (15) days of the Court's claim construction ruling.
- (c) Each party asserting non-infringement, invalidity or unenforceability of a patent claim shall serve on all other parties "Final Noninfringement Contentions" and "Final Invalidity and Unenforceability Contentions" containing the information required by L. P. R. 3.3 and 3.5 within thirty (30) calendar days of the Court's claim construction ruling. With the Final Invalidity Contentions, the party asserting invalidity of any patent claim shall produce or make available for inspection and copying: a copy or sample of all prior art identified pursuant to L. P. R. 3.6, to the extent not previously produced. If any such item is not in English, an English translation of the portion(s) relied upon shall be produced. The producing party shall separately identify by production number which documents correspond to each category.
- (d) Each party claiming patent infringement must serve on all parties "Final Validity and Enforceability Contentions" containing the information required by L. P. R. 3.7 within forty-five (45) days of the Court's claim construction ruling.
- (e) A party may amend the final contentions required under L. P. R. 3.9(b)-(d) only by order of the Court upon a showing of good cause and absence of unfair prejudice, made in timely fashion following discovery of the basis for such amendment. The duty to supplement discovery responses does not excuse the need to obtain leave of court to amend contentions.

**3.11. Final Date to Seek Stay Pending Reexamination**

Absent exceptional circumstances, no party may file a motion to stay the lawsuit pending reexamination in the U.S. Patent Office after the due date for service of that party's Final Contentions.

**IV. Claim Construction Proceedings**

**4.1 Exchange of Proposed Terms for Construction**

- (a) Not later than ninety-five (95) days after the Responsive Pleading, each party shall serve on each other party a list of claim terms which that party contends should be construed by the Court, and identify any claim terms which that party contends should be governed by 35 U.S.C. §112(6).
- (b) The parties shall thereafter meet and confer for the purposes of limiting the terms in dispute by narrowing or resolving differences and facilitating the ultimate preparation of a Joint Claim Construction and Prehearing Statement.
- (c) Not later than one hundred and fifteen (115) days after the Responsive Pleading, each party shall serve on each other party a final list of claim terms which that party contends should be construed by the Court, including any claim terms which that party contends should be governed by 35 U.S.C. §112(6).

**4.2 Exchange of Preliminary and Final Claim Constructions and Evidence**

- (a) Not later than fifteen (15) calendar days after the exchange of the lists pursuant to L. P. R. 4.1(c), the parties shall simultaneously exchange preliminary proposed constructions of each term identified by any party for claim construction. Each such “Preliminary Claim Construction” shall also, for each term which any party contends is governed by 35 U.S.C. § 112(6), identify the structure(s), act(s), or material(s) corresponding to that term’s function.
- (b) At the same time the parties exchange their respective “Preliminary Claim Constructions,” each party shall also identify all references from the specification or prosecution history that support its preliminary proposed construction and designate any supporting extrinsic evidence including, without limitation, dictionary definitions, citations to learned treatises and prior art and testimony of all witnesses including expert witnesses. Extrinsic evidence shall be identified by production number or by producing a copy if not previously produced. The parties shall further identify any fact witness including a brief description of the subject matter of each witness’ anticipated testimony.
- (c) Not later than five (5) days after the completion of expert claim construction discovery pursuant to L. P. R. 4.3(c) or fifty (50) days after the exchange of Preliminary Claim Constructions pursuant to L. P. R. 4.2(b) in the event that no expert is identified, the parties shall simultaneously exchange final proposed constructions of each term identified by any party for claim construction. Each such “Final Claim Construction” shall also, for each term which any party contends is governed by 35 U.S.C. § 112(6), identify the structure(s), act(s), or material(s) corresponding to that term’s function. The parties shall also identify the information set forth in L.P.R. 4.2(b), as well as any expert testimony the party intends to rely upon in support of its proposed claim construction.

**4.3 Expert Claim Construction Discovery**

- (a) Not later than fifteen (15) days after the exchange of Preliminary Claim Constructions pursuant to L.P.R. 4.2(a), any party planning to use an expert witness at the claim construction hearing shall identify that witness and produce a copy of the expert's curriculum vitae and any expert report or declaration the party intends to rely upon.
- (b) Not later than fifteen (15) days after the disclosure of initial expert claim construction reports pursuant to L.P.R. 4.3(a), any party planning to use a rebuttal expert witness at the claim construction hearing shall identify that witness and produce a copy of the expert's curriculum vitae and any expert report or declaration the party intends to rely upon.
- (c) Not later than fifteen (15) days after the disclosure of rebuttal expert claim construction reports pursuant to L. P. R. 4.3(b), the parties shall complete any depositions of any experts identified under L. P. R. 4.3.

**4.4 Claim Construction Submissions**

- (a) Not later than fifteen (15) days after exchanging Final Claim Constructions pursuant to L. P. R. 4.2(c), the parties shall contemporaneously file and serve their opening claim construction briefs and any evidence supporting claim construction, including witness testimony or declarations ("Opening Claim Construction Submissions").
- (b) Not later than thirty (30) days after the filing of the Opening Claim Construction Submissions, the parties shall contemporaneously file and serve responding claim construction briefs and any evidence supporting claim construction, including any responding experts' certifications or declarations.
- (c) Without prior approval of the Court, all memoranda related to Claim Construction Submissions shall be limited to twenty-five (25) pages. Appendices of evidentiary, statutory or other materials are excluded from these page limitations and may be bound separately from the memorandum.

**4.5 Joint Claim Construction and Prehearing Statement**

Not later than five (5) days after the submission of responsive claim construction briefs under L. P. R. 4.4(c), the parties shall complete and file a Joint Claim Construction and Prehearing Statement, which shall contain the following information:

- (a) The construction of those terms on which the parties agree;
- (b) Each party's proposed construction of each disputed term, together with an identification of all references from the intrinsic evidence that supports that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction or to oppose any other party's proposed construction, including, but not limited to, as permitted by

Local Patent Rules - Northern District of Ohio

law, dictionary definitions, citations to learned treatises and prior art, and testimony of all witnesses including experts;

- (c) An identification of the terms that each of the parties contend (i) would require a disposition of the case in its favor and/or (ii) will be substantially conducive to promoting settlement. For any such terms, each of the parties shall also include a brief statement, not to exceed one page, supporting or refuting the contention that the construction of those terms will be dispositive or promote settlement. The Court may, at its option, solicit additional briefing regarding the dispositive nature of any terms prior to the claim construction hearing or upon issuing its claim constructions.
- (d) The anticipated length of time necessary for the Claim Construction Hearing;
- (e) Whether any party proposes to call one or more witnesses at the Claim Construction Hearing, the identity of each such witness, and for each witness a brief description of the subject matter of each witness' anticipated testimony; and
- (f) A list of other issues that might appropriately be taken up at a prehearing conference prior to the claim construction hearing and, if not previously set, proposed dates for any such prehearing conference.

#### **4.6 Claim Construction Hearing**

Subject to the convenience of the Court's calendar, the Court shall conduct a Claim Construction Hearing thirty (30) days following submission of the responsive brief specified in L.R. 4.4(b) to the extent the parties or the Court believe a hearing is necessary for construction of the claims at issue. Prior to the hearing, the parties shall contact the Court to make arrangements for any uses of courtroom technology, such as demonstrations, Powerpoint® presentations or evidence presentation programs. At the hearing, the parties shall submit the best available specimens of patented technology and allegedly infringing activity (e.g. products, schematics, photos, product information sheets).

#### **4.7 Close of Fact Discovery; Status Conference**

Unless otherwise ordered by the Court, fact discovery for all actions subject to these Local Patent Rules shall end no later than thirty (30) days after the Court's claim construction ruling. The parties shall also appear for a status conference (in person or telephonically, at the option of the Court) within thirty (30) days of that ruling.

In addition to updating the Court regarding the status of the pending litigation, each party shall inform the Court whether mediation of the dispute is appropriate during the status hearing. The Court, at its option, may refer any case subject to these rules to mediation as under Local Rule 16 upon request of one or both the parties or *sua sponte*. Any party objecting to its case being selected for mediation must follow the procedure required by Local Rule 16.6. A failure to participate in good faith in the mediation may expose a party and/or its counsel to sanctions.

#### **4.8 Advice of Counsel**

Local Patent Rules - Northern District of Ohio

Unless otherwise ordered by the Court, 90 days before the close of fact discovery, each party relying upon advice of counsel as part of a patent-related claim or defense for any reason shall produce or make available for inspection and copying any written advice and documents related thereto. Regardless of the deadline for the completion of fact discovery, if a party relies on advice of counsel, the opposing party shall be afforded an adequate opportunity to obtain discovery pertaining to such advice.

A party who does not comply with the requirements of this L. P. R. 4.8 shall not be permitted to rely on advice of counsel for any purpose absent a stipulation of all parties or by order of the Court.

**V. Expert Discovery**

**5.1. Disclosure of Experts and Expert Reports**

Unless the Court orders otherwise:

- (a) For issues other than claim construction to which expert testimony shall be directed, expert witness disclosures and depositions shall be governed by this Rule;
- (b) No later than sixty (60) days after the Court issues its Claim Construction Ruling, each party shall make its initial expert witness disclosures required by Federal Rules of Civil Procedure 26 on issues for which it bears the burden of proof; and
- (c) Within thirty (30) days after service of the disclosures required by L. P. R. 5.1(b), each party shall make its rebuttal expert witness disclosures required by Federal Rule of Civil Procedure 26 on the issues for which the opposing party bears the burden of proof.

**5.2. Depositions of Experts**

Depositions of expert witnesses shall be completed within forty (40) days after exchange of expert rebuttal disclosures.

**5.3. Presumption Against Supplementation of Reports**

Amendments or supplementation to expert reports after the deadlines provided herein are presumptively prejudicial and shall not be allowed absent prior leave of court upon a showing of good cause that the amendment or supplementation could not reasonably have been made earlier and that the opposing party is not unfairly prejudiced.

**VI. Dispositive Motions and Trial**

**6.1. Filing Dispositive Motions**

*Local Patent Rules - Northern District of Ohio*

All dispositive motions shall be filed within ten (10) days after the scheduled date for the end of expert discovery.

**6.2. Trial**

Unless otherwise ordered by the Court, and subject to the convenience of the Court's calendar, a Trial on all cases subject to these rules shall be conducted within seventy five (75) days after the filing date of the last dispositive motion brief allowed by Local Rule.

**VII. Appendix**

**Appendix A -- Stipulated Protective Order**

**Appendix B -- Report of Parties' Planning Meeting in Patent Cases**

**Appendix C -- Joint Claim Construction Table**

**Appendix A -- Stipulated Protective Order**

**FORM PROTECTIVE ORDER**  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

	)	
	)	CASE NO.
	)	
Plaintiff,	)	JUDGE
	)	[STIPULATED] <sup>1</sup> PATENT PROTECTIVE
v.	)	ORDER
	)	
Defendant.	)	
	)	

**[If by stipulation.]** The parties to this Stipulated Protective Order have agreed to the terms of this Order; accordingly, it is ORDERED:

**[If not fully by stipulation.]** A party to this action has moved that the Court enter a protective order. The Court has determined that the terms set forth herein are appropriate to protect the respective interests of the parties, the public, and the Court. Accordingly, it is ORDERED:

1. **Scope.** All disclosures, affidavits and declarations and exhibits thereto, deposition testimony and exhibits, discovery responses, documents, electronically stored information, tangible objects, information, and other things produced, provided, or disclosed in the course of this action which may be subject to restrictions on disclosure under this Order, and information derived directly therefrom (hereinafter referred to collectively as "documents"), shall be subject to this Order as set forth below. As there is a presumption in favor of open and public judicial proceedings in the federal courts, this Order shall be strictly construed in favor of public disclosure and open proceedings wherever possible. The Order is also subject to the Local Rules of this District and the Federal Rules of Civil Procedure on matters of procedure and calculation of time periods.

2. **Form and Timing of Designation.** A party may designate documents as confidential and restricted in disclosure under this Order by placing or affixing the words "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" (hereinafter referred to as "CONFIDENTIAL") or "ATTORNEYS EYES ONLY - SUBJECT TO PROTECTIVE ORDER" (hereinafter referred to as "ATTORNEYS EYES ONLY") on the document in a manner that will not interfere with the legibility of the document and that will permit complete removal of the designation. Documents shall be designated prior to or at the time of the production or disclosure of the documents. When a tangible object is produced for inspection subject to protection under this Order, a photograph thereof shall be produced at the time of inspection labeled with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY. Thereafter any information learned

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<sup>1</sup>Counsel should include or delete language in brackets as necessary to the specific case.

Local Patent Rules - Northern District of Ohio

or obtained as a result of the inspection shall be subject to protection under this Order in accordance with the applicable designation. When electronically stored information is produced which cannot itself be marked with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY, the physical media on which such electronically stored information is produced shall be marked with the applicable designation. The party receiving such electronically stored information shall then be responsible for labeling any copies that it creates thereof, whether electronic or paper, with the applicable designation. By written stipulation the parties may agree temporarily to designate original documents that are produced for inspection CONFIDENTIAL or ATTORNEYS EYES ONLY even though the original documents being produced have not themselves been so labeled. All information learned in the course of such an inspection shall be protected in accordance with the stipulated designation. The copies of documents that are selected for copying during such an inspection shall be marked CONFIDENTIAL or ATTORNEYS EYES ONLY as required under this Order and thereafter the copies shall be subject to protection under this Order in accordance with their designation. The designation of documents for protection under this Order does not mean that the document has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

3. **Documents Which May be Designated CONFIDENTIAL.** Any party may designate documents as CONFIDENTIAL upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as confidential business or personal information, medical or psychiatric information, trade secrets, personnel records, or such other sensitive commercial information that is not publicly available. Public records and documents that are publicly available may not be designated for protection under this Order.

4. **Documents Which May be Designated ATTORNEYS EYES ONLY.** Any party may designate documents as ATTORNEYS EYES ONLY upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as trade secrets or other highly sensitive business or personal information, the disclosure of which is likely to cause significant harm to an individual or to the business or competitive position of the designating party.

5. **Depositions.** Deposition testimony shall be deemed CONFIDENTIAL or ATTORNEYS EYES ONLY only if designated as such. Such designation shall be specific as to the portions of the transcript or any exhibit designated for protection under this Order. Thereafter, the deposition testimony and exhibits so designated shall be protected, pending objection, under the terms of this Order. By stipulation read into the record the parties may agree temporarily to designate an entire deposition and the exhibits used therein for protection under this Order pending receipt and review of the transcript. In such a circumstance, the parties shall review the transcript within thirty days of the receipt thereof and specifically designate the testimony and exhibits that will be protected under this Order. Thereafter only the specifically designated testimony and exhibits shall be protected under the terms of this Order.

6. **Protection of Confidential Material.**

(a) **Protection of Documents Designated CONFIDENTIAL.** Documents designated CONFIDENTIAL under this Order shall not be used for any purpose whatsoever other than the prosecution or defense of this action, and of any appeal thereof. The parties and counsel for the



Local Patent Rules - Northern District of Ohio

parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL to any third person or entity except as set forth in subparagraphs (1)-(7). Subject to these requirements, the following categories of persons may be allowed to review documents that have been designated CONFIDENTIAL.

- (1) **Outside Counsel of Record.** Outside counsel of record for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action.
  - (2) **Parties.** Parties and employees of a party to this Order.
  - (3) **The Court.** The Court and its personnel.
  - (4) **Court Reporters and Recorders.** Court reporters and recorders engaged for depositions.
  - (5) **Persons Creating or Receiving Documents.** Any person who authored or recorded the designated document, and any person who has previously seen or was aware of the designated document.
  - (6) **Consultants, Investigators and Experts.** Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.
  - (7) **Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.
- (b) **Protection of Documents Designated ATTORNEYS EYES ONLY.**

Documents designated ATTORNEYS EYES ONLY under this Order shall not be used for any purpose whatsoever other than the prosecution or defense of this action, and of any appeal thereof. The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated ATTORNEYS EYES ONLY to any third person or entity except as set forth in subparagraphs (1)-(6). Subject to these requirements, the following categories of persons may be allowed to review documents that have been designated ATTORNEYS EYES ONLY.

- (1) **Outside Counsel of Record.** Outside counsel of record for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action.
- (2) **The Court.** The Court and its personnel.
- (3) **Court Reporters and Recorders.** Court reporters and recorders engaged for depositions.
- (4) **Persons Creating or Receiving Documents.** Any person who authored or recorded the designated document, and any person who has previously seen or was previously aware of the designated document.
- (5) **Consultants, Investigators and Experts.** Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the

Local Patent Rules - Northern District of Ohio

certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.

- (6) **Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.

(c) **Control of Documents.** Counsel for the parties shall take reasonable and appropriate measures to prevent unauthorized disclosure of documents designated for protection under this Order. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of 1 year after dismissal of the action, the entry of final judgment and/or the conclusion of any appeals arising therefrom.

(d) **Copies.** All copies of documents designated for protection under this Order, or any individual portion of such a document, shall be marked with the designation CONFIDENTIAL or ATTORNEYS EYES ONLY if the words do not already appear on the copy. All such copies shall be entitled to the protection of this Order. The term "copies" shall not include indices, electronic databases or lists of documents provided these indices, electronic databases or lists do not contain substantial portions or images of the text of designated documents or otherwise disclose the substance of the designated documents .

(e) **Inadvertent Production.** Inadvertent production of any document or information without a designation of CONFIDENTIAL or ATTORNEYS EYES ONLY shall be governed by Fed. R. Evid. 502.

7. **Filing of CONFIDENTIAL or ATTORNEYS EYES ONLY Documents Under Seal.** The Court highly discourages the manual filing of any pleadings or other papers under seal. To the extent that a pleading or other paper references an exhibit designated for protection under this Order, then the pleading or other paper shall refer the Court to the particular exhibit filed under seal without disclosing the contents of any confidential information.

(a) Before any exhibit designated for protection under this Order is filed under seal with the Clerk, the filing party shall first consult with the party that originally designated the document for protection under this Order to determine whether, with the consent of that party, the exhibit or a redacted version of the exhibit may be filed with the Court not under seal.

(b) Where agreement is not possible or adequate, an exhibit designated for protection under this Order shall be filed electronically under seal in accordance with the electronic case filing procedures of this Court.

(c) Where filing electronically under seal is not possible or adequate, before an exhibit designated for protection under this Order is filed with the Clerk, it shall be placed in a sealed envelope marked CONFIDENTIAL or ATTORNEYS EYES ONLY, which envelope shall also display the case name, docket number, a designation of what the exhibit is, the name of the party in whose behalf it is submitted, and the name of the attorney who has filed the exhibit on the front of the envelope. A copy of any exhibit filed under seal shall also be delivered to the judicial officer's chambers.

(e) To the extent that it is necessary for a party to discuss the contents of any document designated for protection under this Order in a pleading or other paper filed with this Court, then such portion of the pleading or other paper shall be filed under seal. In such circumstances, counsel

Local Patent Rules - Northern District of Ohio

shall prepare two versions of the pleading or other paper, a public and a sealed version. The public version shall contain a redaction of references to CONFIDENTIAL or ATTORNEYS EYES ONLY documents. The sealed version shall be a full and complete version of the pleading or other paper and shall be filed with the Clerk under seal as above. A copy of the unredacted pleading or other paper also shall be delivered to the judicial officer's chambers.

8. **Challenges by a Party to a Designation for Protection Under this Order.** Any CONFIDENTIAL or ATTORNEYS EYES ONLY designation is subject to challenge by any party or non-party with standing to object (hereafter "party"). Before filing any motions or objections to a designation for protection under this Order with the Court, the objecting party shall have an obligation to meet and confer in a good faith effort to resolve the objection by agreement. If agreement is reached confirming or waiving the CONFIDENTIAL or ATTORNEYS EYES ONLY designation as to any documents subject to the objection, the designating party shall serve on all parties a notice specifying the documents and the nature of the agreement.

9. **Action by the Court.** Applications to the Court for an order relating to any documents designated for protection under this Order shall be by motion under Local Rule 7.1 and any other procedures set forth in the presiding judge's standing orders or other relevant orders. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make any orders that may be appropriate with respect to the use and disclosure of any documents produced or used in discovery or at trial.

10. **Use of Confidential Documents or Information at Trial.** Absent order of the Court, all trials are open to the public and there will be no restrictions on the use at trial of any document designated for protection under this Order. If a party intends to present at trial documents designated for protection under this Order, or information derived therefrom, such party shall provide advance notice to the party designating the documents for protection under this Order least five (5) days before the commencement of trial by identifying the documents or information at issue as specifically as possible (*i.e.*, by Bates number, page range, deposition transcript lines, etc.). Upon motion of the party designating the document for protection under this Order, the Court may thereafter make such orders as are necessary to govern the use of such documents or information at trial.

11. **Obligations on Conclusion of Litigation.**

(a) **Order Remains in Effect.** Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.

(b) **Return of Documents Designated for Protection Under this Order.** Within thirty days after dismissal or entry of final judgment not subject to further appeal, all documents designated for protection under this Order, including copies as defined in ¶6(d), shall be returned to the producing party unless: (1) the document has been offered into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction in lieu of return; or (3) as to documents bearing the notations, summations, or other mental impressions of the receiving party, that party elects to destroy the documents and certifies to the producing party that it has done so. Notwithstanding the above requirements to return or destroy documents, counsel may retain copies of all pleadings, motions, orders, written discovery, and other papers filed with the Court or exchanged by the parties even though they may contain documents designated for protection under this Order. Counsel may also retain attorney work product, including an index which refers or

Local Patent Rules - Northern District of Ohio

relates to documents designated for protection under this Order, so long as that work product does not duplicate verbatim substantial portions of the text or images of documents designated for protection under this Order. This work product shall continue to be subject to the protections of this Order in accordance with the applicable designation. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose or use documents designated for protection under this Order.

(c) **Return of Documents Filed under Seal.** After dismissal or entry of final judgment not subject to further appeal, the Clerk may elect to return to counsel for the parties or, after notice, destroy documents filed or offered at trial under seal or otherwise restricted by the Court as to disclosure.

12. **Order Subject to Modification.** This Order shall be subject to modification by the Court on its own motion or on motion of a party or any other person with standing concerning the subject matter. Motions to modify this Order shall be served and filed under Local Rule 7.1 and the presiding judge's standing orders or other relevant orders.

13. **No Prior Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any documents designated for protection under this Order are entitled to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific document or issue.

14. **Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel and their law firms, the parties, and persons made subject to this Order by its terms.

**So Ordered.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
District Judge  
Magistrate Judge

**[Delete signature blocks if not wholly by consent]**

**WE SO MOVE/STIPULATE  
and agree to abide by the  
terms of this Order.**

\_\_\_\_\_  
Counsel for Plaintiff

\_\_\_\_\_  
Counsel for Defendant

Local Patent Rules - Northern District of Ohio  
**FORM PROTECTIVE ORDER ATTACHMENT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

	)	CASE NO.
Plaintiff,	)	
	)	JUDGE
v.	)	
	)	
Defendant.	)	
	)	

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

The undersigned hereby acknowledges that he/she has read the Protective Order entered in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the Northern District of Ohio in matters relating to the Protective Order and understands that the terms of the Protective Order obligate him/her to use documents designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER or ATTORNEYS EYES ONLY – SUBJECT TO PROTECTIVE ORDER in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived directly therefrom to any other person, firm or concern.

The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Employer: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Local Patent Rules - Northern District of Ohio

**Appendix B -- Report of Parties' Planning Meeting in Patent Cases**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
\_\_\_\_\_DIVISION

	)	CASE NO.
Plaintiff,	)	
	)	
v.	)	JUDGE
	)	
Defendant.	)	Report of Parties' Planning Meeting
	)	Under Fed. R.Civ.P.26(F),
	)	LR16.3(b)(3)
	)	and LPR 2.1

1. Pursuant to Fed. R.Civ. P. 26(f), LR 16.3(b)(3) and LPR 2.1, a meeting was held on [MM/DD/YYYY] and was attended by:

\_\_\_\_\_ counsel for plaintiff(s) \_\_\_\_\_  
\_\_\_\_\_ counsel for plaintiff(s) \_\_\_\_\_  
\_\_\_\_\_ counsel for defendant(s) \_\_\_\_\_  
\_\_\_\_\_ counsel for defendant(s) \_\_\_\_\_

2. The parties do/do not consent to the jurisdiction of the United States Magistrate Judge pursuant to 28 U.S.C. § 636(c).

3. **Scheduling**

a. **Proposed Schedule:**

[Counsel shall include dates for all disclosures required by the Local Patent Rules for the Northern District of Ohio to the extent such disclosures have not already been made.]

b. If the parties are advocating a departure from the dates set forth in the Patent Local Rules, set forth the basis for said departure: \_\_\_\_\_  
\_\_\_\_\_

4. **Anticipated Motions**

a. The parties anticipate filing the following motions:

Local Patent Rules - Northern District of Ohio

- i. \_\_\_ Preliminary injunction. Proposed briefing schedule: \_\_\_\_\_  
\_\_\_\_\_
- ii. \_\_\_ Motion to add or substitute parties. Proposed briefing schedule: \_\_\_\_\_  
\_\_\_\_\_
- iii. \_\_\_ [Other]. Proposed briefing schedule: \_\_\_\_\_  
\_\_\_\_\_

b. The following issues may be the proper subject of an early motion for summary judgment or partial summary adjudication:

- i. \_\_\_ Inventorship or Indefiniteness (describe basis) \_\_\_\_\_  
\_\_\_\_\_
- ii. \_\_\_ Invalidating sale, offer for sale, or display (describe basis) \_\_\_\_\_  
\_\_\_\_\_
- iii. \_\_\_ Other (describe basis) \_\_\_\_\_  
\_\_\_\_\_

**5. Nature of Dispute**

- a. Describe the field of the claimed invention: \_\_\_\_\_  
\_\_\_\_\_
- b. Claims asserted: \_\_\_\_\_
- c. The parties anticipate requesting that the Court construe \_\_\_\_\_ claim terms.
- d. Describe the allegedly infringing activity or product: \_\_\_\_\_  
\_\_\_\_\_
- e. Describe any potentially non-infringing alternative designs : \_\_\_\_\_  
\_\_\_\_\_
- f. The parties have/have not stipulated that the above-described designs do not infringe the patents in issue.

**6. Discovery**

- a. If the parties anticipate needing to propound interrogatories and/or take depositions in excess of the number provided in the Federal Rules of Civil Procedure, set forth the proposed limit and basis for the request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Local Patent Rules - Northern District of Ohio

- b. The parties have/have not agreed to an electronic discovery plan. Absent agreement by the parties, the default standard for e-discovery set forth in Appendix K to the Local Rules applies.
  - c. The parties anticipate the following discovery issues: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. **Protective Order**
- a. The parties have/have not agreed to the form Patent Protective Order set forth in Appendix C to the Local Patent Rules.
  - b. The parties do/do not plan to submit an alternative proposed protective order for adoption by the Court.
  - c. Identify any issues the Court should be aware of with respect to the confidentiality concerns of the parties: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. **Claim Construction Hearing.** The parties propose the following format for the Claim Construction Hearing:
- a. Order of presentation: \_\_\_\_\_
  - b. Anticipated number of witnesses: \_\_\_\_\_
  - c. Anticipated length of hearing: \_\_\_\_\_
9. The parties have/have not consented, pursuant to Fed. R.Civ. P. 5(b)(2)(E), to the electronic exchange of pleadings, notices, discovery, and other mandated disclosures not otherwise served electronically via the Court's electronic filing system.
10. The parties have/have not discussed settlement and the appropriateness of Alternative Dispute Resolution.

Dated: \_\_\_\_\_, 20\_\_

Respectfully submitted,

\_\_\_\_\_  
Attorney for Plaintiff(s)

\_\_\_\_\_  
Attorney for Defendant(s)



Local Patent Rules - Northern District of Ohio

**Appendix C -- Joint Claim Construction Table**

**CASE CAPTION AND NUMBER**

<b>Claim No., Patent No.</b>				
<b>Disputed Claim Terms (Entire Claim Provided for Context. Only Underlined Claim Terms are Discussed by the Parties)</b>	<b>Plaintiffs' Proposed Construction/Importance to Outcome</b>	<b>Plaintiffs' Citation to Intrinsic and Extrinsic Evidence</b>	<b>Defendant's Proposed Construction/Importance to Outcome</b>	<b>Defendant's Citation to Intrinsic and Extrinsic Evidence</b>

Local Patent Rules - Northern District of Ohio

**Sample Local Patent Rules Timeline (Detailed Schedule Through Claim Construction)**

---

	1/4/2010	Filing of Complaint
40	2/13/2010	Answer or Motion
45	2/18/2010	LPR 1.4 Case Management Notice and/or Request for Modification of Deadlines
55	2/28/2010	LPR 3.1-3.2 Infringement Contentions
85	3/30/2010	LPR 3.3-3.4 Non-infringement Contentions
120	5/4/2010	LPR 3.5 Invalidity and Unenforceability Contentions
135	5/19/2010	LPR 4.1(a) Preliminary ID of Claim Terms to be Construed
140	5/24/2010	LPR 3.7 Validity and Enforceability Contentions
155	6/8/2010	LPR 4.1(c) Final ID of Claim Terms
170	6/23/2010	LPR 4.2(a) and (b) Preliminary Claim Constructions and Supporting Materials
185	7/8/2010	LPR 4.3(a) ID of Claim Construction Expert
200	7/23/2010	LPR 4.3(b) Disclosure of Rebuttal Claim Construction Expert
215	8/7/2010	LPR 4.3(c) Completion of Expert Discovery
220	8/12/2010	LPR 4.2(c) Final Claim Construction
235	8/27/2010	LPR 4.4(a) Opening Claim Construction Submission
265	9/26/2010	LPR 4.4(b) Responsive Claim Construction Submissions
270	10/1/2010	LPR 4.5 File Joint Claim Construction and Prehearing Statement
295	10/26/2010	LPR 4.6 Claim Construction Hearing

**All remaining dates are tied to the Court's claim construction filing**