

Summary of Local Patent Rules Affecting Claim Construction Practice (Part 3 of 6)

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Presently, eleven federal district court have enacted local patent rules. The rules are generally used to help streamline what can be very complicated disputes. Among these rules are rules that affect claim construction practice in each district court. Practitioners should be able to benefit from understanding these differences in practice. In this ~~five-part~~ six-part series, this blog will undertake to briefly summarize the applicable claim construction rules in each of these eleven courts. Today, we focus on the United States District Courts for the Northern District of Georgia and Western District of Washington.

Northern District of Georgia (rules available [here](#))

- The parties first simultaneously exchange a list of claim terms to be construed and claim elements which the parties contend should be governed by 35 U.S.C. § 112 ¶ 6;
- The parties are then required to meet and confer to narrow issues and finalize the list of terms;
- 20 days after the exchange of terms, the parties simultaneously

exchange proposed constructions, the structure/acts/materials in the specification for 35 U.S.C. § 112 ¶ 6 claim terms, extrinsic evidence relied upon, and brief description of witness testimony (if applicable);

- The parties are then required to meet and confer again to narrow issues and prepare a Joint Claim Construction Statement for the court;
- 20 days after the exchange of proposed constructions, the parties file a Joint Claim Construction Statement with the court that contains the following information:
 1. agreed-upon constructions;
 2. each party's proposed constructions and intrinsic and extrinsic evidence relied upon;
 3. length of time needed for the claim construction hearing;
 4. identity of witnesses to be called at the hearing and summaries of opinions to be offered by the witnesses;
- 15 days after the Joint Claim Construction Statement filing, claim construction discovery ends;
- 30 days after the Joint Claim Construction Statement filing, the parties simultaneously file opening briefs;
- 20 days after filing opening briefs, the parties simultaneously file response briefs;
- The Court will the conduct a claim construction hearing if the Court believes a hearing is necessary.
- If, after the Court issues its claim construction ruling, there are

fewer than 30 days left in the discovery schedule, the parties will receive 45 days in which to take discovery after the Court files its claim construction ruling.

Western District of Washington (rules available [here](#))

- The parties first simultaneously exchange a list of claim terms to be construed and claim elements which the parties contend should be governed by 35 U.S.C. § 112 ¶ 6;
- The parties are then required to meet and confer to narrow issues and finalize the list of terms;
- 30 days after the exchange of terms, the parties simultaneously exchange proposed constructions, the structure/acts/materials in the specification for 35 U.S.C. § 112 ¶ 6 claim terms, extrinsic evidence relied upon, and brief description of witness testimony (if applicable);
- The parties are then required to meet and confer again to narrow issues and prepare a Joint Claim Construction and Prehearing Statement for the court;
- 45 days after the exchange of proposed constructions, the parties file a Joint Claim Construction and Prehearing Statement with the court that contains the following information:
 1. agreed-upon constructions;
 2. each party's proposed constructions and intrinsic and extrinsic evidence relied upon;
 3. the ten most important disputed claim terms (if the parties cannot agree on ten terms, the parties submit the terms upon which they agree are the "most important" and then submit

- separate lists to the extent necessary);
 4. length of time needed and proposed order of presentation for the claim construction hearing;
 5. the parties' positions on live testimony, identification of witnesses, and disclosure of testimony (if applicable);
 6. whether a tutorial is needed and the timing thereof;
 7. whether a prehearing conference is needed;
 8. whether the parties believe the Court should appoint an independent expert;
- 50 days after the Joint Claim Construction and Prehearing Statement filing, claim construction discovery ends;
 - 55 days after the Joint Claim Construction and Prehearing Statement filing, the parties simultaneously file opening briefs of no more than 24 pages per side;
 - 15 days after filing opening briefs, the parties simultaneously file response briefs of no more than 12 pages per side;
 - The Court will the conduct a claim construction hearing if the Court believes a hearing is necessary and the Court will construe a maximum of ten claim terms, unless the Court determines otherwise.

As can be seen, the procedures for the Northern District of Georgia and Western District of Washington are generally similar, besides the time schedule, the additional content required in the Washington Joint Claim Construction and Prehearing Statement, and Washington's general limit of ten claim terms for construction.

Stay tuned for parts four, five and six of this series. Parts one and two of the series can be found [here \(Part I\)](#) and [here \(Part II\)](#).

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