

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA

Robert N. Trgovich, Clerk

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September 12, 2019

## NOTICE

TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE NORTHERN DISTRICT OF INDIANA

Pursuant to 28 U.S.C. § 2071, Rule 83 of the *Federal Rules of Civil Procedure*, and Rule 57 of the *Federal Rules of Criminal Procedure* the United States District Court for the Northern District of Indiana gives public notice of the following:

The Local Rules Advisory Committee for the Northern District of Indiana has recommended, and the District Court has authorized release for a period of public comment, the revision of certain Local Rules of the United States District Court for the Northern District of Indiana. The proposed Local Rules are as follows:

Local Rule 65-1  
Local Patent Rule 4-1  
Appendices of the Local Rules, Appendix D

Comments must be submitted on or before October 28, 2019, either on the court's website at [www.innd.uscourts.gov](http://www.innd.uscourts.gov), or in writing sent to:

Local Rules Comments  
Office of the Clerk  
204 South Main Street  
Room 304  
South Bend, Indiana 46601

Amendments are attached to this notice. Unless otherwise indicated, as seen in this Notice **redline** text is added and ~~struck~~ text is deleted.

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### Reply to South Bend Office

1108 E. Ross Adair Federal Bldg. • 1300 S. Harrison Street • Fort Wayne, Indiana 46802 • (260) 423-3000 • Fax (260) 423-3007  
5400 Federal Plaza • Suite 2300 • Hammond, Indiana 46320 • (219) 852-6500 • Fax (219) 852-6509  
102 Robert A. Grant Federal Bldg. • 204 South Main Street • South Bend, Indiana 46601 • (574) 246-8000 • Fax (574) 246-8002  
214 Charles Halleck Federal Bldg. • 230 North Fourth Street • P.O. Box 1498 • Lafayette, Indiana 47902 • (765) 420-6250 • Fax (765) 420-6314

## **N.D. IND. L.R. 65-1. PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS**

**(a) Preliminary Injunctions.** The court will consider requests for preliminary injunctions only if the moving party files a separate motion for relief. **Supporting and response briefs are not required, but the court may request them.**

**(b) Temporary Restraining Orders.** The court will consider requests for temporary restraining orders only if the moving party:

- (1) files a separate motion for relief;
  - (2) files a supporting brief; and
  - (3) complies with Fed. R. Civ. P. 65(b).
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## N.D. IND. L.P.R. 4-1. CLAIM-CONSTRUCTION PROCEEDINGS

**(a) Exchanging Terms.** Within 14 days after receiving the preliminary invalidity contentions (or within 42 days after receiving the preliminary infringement contentions in those actions in which validity is not at issue), each party must serve on all other parties a list of claim terms that the party contends should be construed by the court (terms for construction), and identify any claim term that the party contends should be governed by 35 U.S.C. § 112(f).

**(b) Exchanging Preliminary Claim Constructions and Extrinsic Evidence; Parties' Conference.**

(1) Within 14 days after the proposed terms for construction are exchanged, the parties must exchange proposed constructions of each term (preliminary claim construction[s]). Each preliminary claim construction must also, for each term which any party contends is governed by 35 U.S.C. § 112(f), identify the function of that term and the structures, acts, or materials corresponding to that term's function.

(2) When the parties exchange their preliminary claim constructions, they must also identify all references from the specification or prosecution history that support its construction and designate any supporting extrinsic evidence including:

- (A) dictionary definitions;
- (B) citations to learned treatises and prior art, and
- (C) testimony of percipient and expert witnesses.

(3) Within 14 days after the preliminary claim constructions are exchanged, the parties must meet and confer to limit the terms in dispute by narrowing or resolving differences and plan to prepare a *joint claim-construction and prehearing statement*. The parties must also jointly identify no more than ten disputed terms per patent in suit, unless the court grants more for inclusion in the joint claim-construction and prehearing statement. If a dispute arises as to which terms to include in the joint claim-construction and prehearing statement, each side must be presumptively limited to five disputed terms per patent in suit. This limit may only be altered by leave of court.

**(c) Joint Claim-construction and Prehearing Statement.** Within 14 days after they meet and confer, the parties must complete and file a *joint claim-construction and prehearing statement*. This statement must address the disputed terms and contain the following information:

- (1) The construction of those terms on which the parties agree;
- (2) Each party's construction of each disputed term (with the identity of all references from the specification or prosecution history that support its construction) and the identity of any extrinsic evidence known to the party on which it intends to rely either to support its

construction or to oppose another party's construction, including dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses;

(3) The anticipated length of time necessary for the claim-construction hearing; and

(4) If witnesses are to be called at the claim-construction hearing, the identity of each such witness, and for each witness, a summary of his or her testimony including, for any expert witness, a report containing the expert's claim-construction opinions and the reasons for them.

**(d) Completing Claim-construction Discovery.** Within 21 days after the *joint claim-construction and prehearing statement* is filed, the parties must complete all discovery relating to claim construction, including witness depositions.

**(e) Claim-construction Briefs.**

(1) *Opening Briefs.* Within 14 days after completing claim-construction discovery, the parties must file their respective opening briefs and any evidence supporting their claim constructions.

(2) *Length.* Opening briefs may not exceed 30 pages without leave of court.

(3) *Response Briefs.* Within 21 days after receiving an opening brief, each opposing party must file any response briefs and supporting evidence.

(4) *Length.* Response briefs may not exceed 20 pages without leave of court.

(5) *Additional Briefs.* Reply and surreply briefs are not permitted without leave of court.

**(f) Joint Claim-construction Chart.** Within 7 days of the last-filed response brief, the parties must file a *joint claim-construction chart*, in the format set forth in Appendix D, containing:

(1) a column listing each disputed claim term, with the disputed language in bold type;

(2) a column in which agreed construction of any claim language material to the dispute is explained; and

(3) separate columns for each party's proposed construction of the disputed claim term, briefly stated, with supporting citations to the specification, prosecution history or extrinsic evidence relied upon.

**(f g) Claim-construction Hearing.** When necessary to construe the claims, the court will endeavor to conduct a claim-construction hearing within 63 days after briefing is complete.

**(g h) Tutorial Hearings.** The court may order a tutorial hearing to occur before, or during, the claim-construction hearing.

**(h i) Orders.** The court will work expeditiously to issue a prompt claim-construction order after the hearing.

## APPENDIX D. JOINT CLAIM-CONSTRUCTION CHART

<p style="text-align: center;"><b>PATENT CLAIM CONTAINING DISPUTED LANGUAGE</b></p>	<p style="text-align: center;"><b>ANY AGREED PROPOSED CONSTRUCTION</b></p>	<p style="text-align: center;"><b>PLAINTIFF’S PROPOSED CONSTRUCTION OF DISPUTED TERM</b></p>	<p style="text-align: center;"><b>DEFENDANT’S PROPOSED CONSTRUCTION OF DISPUTED TERM</b></p>
<p>1. Claim language as it appears in the patent with terms and phrases to be construed <b>in bold</b>.</p>	<p>Proposed agreed construction, if any, of any claim language material to the dispute.</p>	<p>Plaintiff’s proposed construction of the disputed claim language.</p> <p>Supporting citations to the specification, prosecution history or extrinsic evidence.</p>	<p>Defendant’s proposed construction of the disputed claim language.</p> <p>Supporting citations to the specification, prosecution history or extrinsic evidence.</p>
<p>2. Claim language as it appears in the patent with terms and phrases to be construed <b>in bold</b>.</p>	<p>Proposed agreed construction, if any, of any claim language material to the dispute.</p>	<p>Plaintiff’s proposed construction of the disputed claim language.</p> <p>Supporting citations to the specification, prosecution history or extrinsic evidence.</p>	<p>Defendant’s proposed construction of the disputed claim language.</p> <p>Supporting citations to the specification, prosecution history or extrinsic evidence.</p>