

STANDING ORDER FOR PATENT CLAIM CONSTRUCTION PROCEEDINGS BEFORE JUDGE DOW

Unless ordered otherwise, the following instructions shall apply to all patent claim construction proceedings before Judge Dow:

1. The parties shall propose, and the Court shall set, a date by which the parties are to exchange a preliminary claim chart of proposed terms for the Court to construe, and their proposed constructions for those terms, including the identity of any claim element that the party contends should be governed by 35 U.S.C. § 112(6).
2. Within two weeks of the exchange of the preliminary claim construction chart, the parties shall meet and confer regarding the claim terms and determine which claim terms are in dispute. After that meeting, on or before a date set by the Court, the parties shall submit a joint claim construction chart identifying all relevant claim terms. The joint chart shall set forth all agreed constructions and all claim terms that remain in dispute and require construction by the Court.
 - A. For each disputed claim term, the joint chart shall identify the following:
 1. The disputed term;
 2. Each party's proposed construction of each disputed claim term;
 3. For any disputed term that a party contends invokes 35 U.S.C. § 112(6), the party must indicate this contention in its proposed construction for that term.
 - B. Each party's proposed construction of the disputed claims as set forth in the joint chart is binding, absent leave of court, including whether any term invokes 35 U.S.C. § 112(6). If the parties subsequently agree on the construction of a disputed claim, they may amend their position.
3. Twenty-one days after filing the joint claim construction chart, the patentee must file its opening claim construction brief and supporting evidence. For each element the patentee claims is governed by 35 U.S.C. § 112(6), the opening claim construction brief must include the claimed function of that element and must identify the structure(s), act(s), or material(s) corresponding to that element.
 - A. The parties must file one joint appendix with the patentee's opening brief with the patent(s) in dispute and the prosecution history for each patent. The prosecution history must be paginated and the parties should include the appropriate page number when citing it. The patentee may also file a separate appendix with other supporting materials.
 - B. Opening briefs are limited to 25 pages.

4. The alleged infringer must file its responsive brief and supporting evidence twenty-one days after the opening brief is served. A responsive brief is limited to 25 pages. For each element the alleged infringer claims is governed by 35 U.S.C. § 112(6), the responsive brief must include the claimed function of that element and must identify the structure(s), act(s), or material(s) corresponding to that element.
5. The patentee may file a reply brief and supporting evidence directly rebutting the opposing party's response fourteen days after the responsive brief is served. Reply briefs are limited to 15 pages.
6. Seven days after the patentee filed its reply brief, the parties must file an amended, final joint claim construction chart identifying the remaining disputed terms and each party's proposed construction, and any agreed upon constructions.
7. Two weeks before the claim construction hearing, the parties must file a Joint Pre-hearing Statement with the following information:
 - A. The anticipated length of time anticipated for a claim construction hearing;
 - B. The identity of any witnesses each party intends to call at such a hearing; and
 - C. A brief summary of the nature of each witness's testimony and the anticipated length of such testimony.
8. If a party intends to call as a witness and/or submit affidavits of experts, a statement of the expert's qualifications shall be submitted as an additional attachment to any memorandum submitted.
9. Each party shall prepare sufficient bound volumes of exhibits to accommodate the following: one copy for each party, one copy to be kept on the witness stand, one copy for the court reporter, and one copy for Judge Dow.
10. Judge Dow requires courtesy copies of all filings, including exhibits, in connection with claim construction in patent cases.

Dated: March 11, 2008

ENTER:

Robert M. Dow, Jr.
United States District Judge