

## PROCEDURES FOR MARKMAN HEARING

In preparation for the *Markman* hearing, the plaintiff shall submit a memorandum in support of its position. This memorandum shall identify which patent claim(s) plaintiff relies upon for its position. In addition, this memorandum shall identify the precise language of the claim(s) upon which plaintiff relies for its interpretation. This memorandum shall also include a proposed draft of plaintiff's interpretation of the claim(s) in a form suitable for use as a jury instruction. Attachments to this memorandum should include copies of the subject patents, affidavits of persons skilled in the art as to the definition of disputed terms, and a list of any witnesses and exhibits to be offered at the *Markman* hearing. Copies of all exhibits shall be pre-marked, bound, and tabbed. Plaintiff's memorandum and attachments must be filed by the date set by the Court (normally forty-five days prior to the date of the hearing)

Defendants shall file responsive memoranda in support of their position. Responsive memoranda shall identify which patent claim(s) each defendant relies upon for its position. In addition, responsive memoranda shall also identify the precise language of the claim(s) upon which each defendant relies. Responsive memoranda shall also include a draft of each defendant's interpretation of the claim(s) in issue in a form suitable as a jury instruction. Attachments shall include copies of subject patents not supplied with plaintiff's memorandum and affidavits of persons skilled in the art as to the definition of disputed terms, and a list of the witnesses and exhibits to be offered at the *Markman* hearing. Copies of all exhibits shall be pre-marked, bound, and tabbed. Defendants responsive memoranda shall be filed by the date set by the Court (normally twenty-one days after the plaintiff files the opening memorandum). The Court may permit the plaintiff to file a brief reply memorandum (ten days after the defendant's memorandum).

The *Markman* hearing shall be limited to one day, i.e., each side shall have 1-1/2 hours to present evidence and/or argument in support of its position.

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. Each side shall be limited to one expert witness. Each party shall prepare four (4) bound volumes of exhibits, one for the Court, one for opposing counsel and one to be kept on the witness stand. The copies for the Court and opposing counsel shall be delivered seven (7) days prior to the Markman Hearing.