

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

REPORT OF THE LOCAL PATENT RULES COMMITTEE
Explanatory Notes for 2011 Amendments

In September 2010, almost two years after the Local Patent Rules had been adopted, the Committee reconvened to assess the impact and effectiveness of the Local Patent Rules. Based on the experiences of members of the Committee from the Judiciary and the Bar, there was an unanimous view that the Local Patent Rules have served to benefit the Court and the parties in patent litigation.

Notwithstanding those positive experiences, the Committee also believed that certain amendments might be warranted. Those areas of proposed changes include: (a) design patents; (b) certain disclosure obligations; (c) clarifying disclosure of evidence in connection with a Markman hearing; (d) need for responses to infringement and invalidity contentions; (e) specific modifications for disclosures exclusive to Hatch-Waxman cases; (f) amendments to required submissions or filings; and clarification in the language of rules.

Subcommittees were appointed for each of the subject areas and shortly thereafter recommendations were proposed to the full Committee, which discussed them at length.

With regard to design patents, shortly after the Committee had submitted its proposed patent rules in 2008, the Court of Appeals for the Federal Circuit issued its en banc ruling in *Egyptian Goddess v. Swisa*, 543 F.3d 665 (2008), which held, in part, that a trial court should not provide a detailed verbal description of the claimed design. This holding is in tension with certain of the Local Patent Rules which call for a narrative claims chart, claim construction contentions and a claim construction hearing. The Committee determined that in light of the Federal Circuit authority modifications were appropriate to better suit the needs of design patents. See L. Pat. R. 3.1(c) and (e); 3.3(c); 3.4A(c); 4.1(c); 4.2(e); 4.3(g); 4.4; and 4.5(d).

While the Local Patent Rules expressly reference obligations regarding infringement and invalidity, the Committee noted that in cases outside of Hatch-Waxman matters, no provision presently exists that requires the allegedly infringing party to provide its non-infringement contentions. Accordingly, the Committee proposed disclosure obligations for non-infringement similar to those required for assertion of infringement and invalidity. See L. Pat. R. 3.2A(a) and (b); and 3.4(c).

As to invalidity contentions, while there are disclosure obligations by a party asserting

invalidity, the Committee determined that a requirement that mandates that the patent holder respond in kind to invalidity contentions will provide parity between the parties and serve to focus the invalidity challenge. See L. Pat. R. 3.4A(a),(b) and (c); and 3.5 (a).

To help ensure that the spirit of the disclosure obligations is fully appreciated, the Committee recommended various rules requiring parties to disclose all materials that they intend to rely upon in connection with infringement, non-infringement, and invalidity contentions and or responses thereto. See L. Pat. R. 3.2(f); 3.2A(c); 3.4(c); and 3.4A(d).

In the area of Hatch-Waxman actions under L. Pat. R. 3.6, the Committee concluded that in order to help narrow the focus of a generic's invalidity contentions, the patent holder should be required to provide early disclosure of each patent and patent claim for infringement to which its infringement contentions would be limited. This eliminates speculation and added work by the generics in formulating their non-infringement and invalidity contentions. Changes recommended to disclosure obligations in non-Hatch-Waxman cases as they would apply in the Hatch-Waxman context were also proposed. In addition, the Committee determined that the ANDA filer should produce its Abbreviated New Drug Application or New Drug Application shortly after filing an answer or motion as this is a fundamental element of the Hatch-Waxman action. It was also recommended that the ANDA filer be required to advise the Food and Drug Administration ("FDA") of any motion for injunctive relief and supply the parties with relevant communications with the FDA which concern the subject matter filed in the District Court. This is intended to keep the FDA and parties apprised of any proceedings that may impact the ongoing litigation. See L. Pat. R. 3.6(a), (b), (c), (i) and (j).

In an effort to avoid potential misunderstandings as to the scope of permitted amendments to obligations under the Local Patent Rules, the Committee sought to clarify that amendments apply to all filings with the Court or exchanges between the parties as may be required by the Local Patent Rules. The proposed rule also makes plain that any amendments require the approval of the Court, notwithstanding consent by the parties. See L. Pat. R. 3.7.

Finally, as to claim construction and claim construction proceedings, the Committee proposed adding language to clarify that evidence to be used must be disclosed in a timely fashion. See L. Pat. R. 4.2(b) and (c); and 4.3(f).

In December 2010, the Committee submitted the proposed amendments to the Board of Judges for their consideration.

Local Patent Rules Committee

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December 2, 2010

L. Civ. R. 9.3 -- LOCAL PATENT RULES

1. SCOPE OF RULES

1.1. Title.

These are the Local Patent Rules for the United States District Court for the District of New Jersey. They should be cited as “L. Pat. R. ___.”

1.2. Scope and Construction.

These rules apply to all civil actions filed in 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 meet and confer to the Court.

1.3. Modification of these Rules.

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 initial Scheduling Conference, but may be made at other times by the Court sua sponte or upon a showing of good cause. In advance of submission of any request for a modification, the parties shall meet and confer for purposes of reaching an agreement, if possible, upon any modification.

1.4. Effective Date.

These Local Patent Rules take effect on January 1, 2009. They govern patent cases filed, transferred or removed on or after that date. For actions pending prior to the effective date, the Court will confer with the parties and apply these rules as the Court deems practicable.

1.5. Patent Pilot Project.

Procedures for allocation and assignment of patent cases under the Patent Pilot Project pursuant to Pub. L. No. 111-349, § 1, are provided in L. Civ. R. 40.1(f) and Appendix T to the Local Civil Rules.

2. GENERAL PROVISIONS

2.1. Governing Procedure.

(a) Initial Scheduling Conference. When the parties confer pursuant to Fed. R. Civ. P. 26(f), the parties shall discuss and address in the Discovery Plan submitted pursuant to Fed. R. Civ. P. 26(f) and L. Civ. R. 26.1(b)(2) the topics set forth in those rules and the following topics:

(1) Proposed modification of the obligations or deadlines set forth in these Local Patent Rules to ensure that they are suitable for the circumstances of the particular case (see L. Pat. R. 1.3);

(2) The scope and timing of any claim construction discovery including disclosure of and discovery from any expert witness permitted by the court;

(3) 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;

(4) How the parties intend to educate the Court on the patent(s) at issue;
and

(5) The need for any discovery confidentiality order and a schedule for presenting certification(s) required by L. Civ. R. 5.3(b)(2).

(6) The availability and timing of production of invention records (including inventor laboratory notebooks and analytical test results);

The availability and timing of production of ANDA product research and development documents;

The availability and timing of production of ANDA product samples;

The date of conception and the date of reduction to practice for each patent asserted in the action, if applicable;

Each inventor's availability for deposition in the matter;

Availability of foreign witnesses for deposition and foreign documents;

Whether there is a 30-month stay and if so, when it ends;

A date for substantial completion of document production and a method for determining compliance;

Any other issues or matters that a party believes are time sensitive.

2.2. Confidentiality.

Discovery cannot be withheld or delayed on the basis of confidentiality absent Court order. Pending entry of a confidentiality order, discovery and disclosures deemed confidential by a party shall be produced to the adverse party for outside counsel's Attorney's Eyes Only, solely for purposes of the pending case and shall not be disclosed to the client or any other person.

Within 14 days after the initial Scheduling Conference, (a) the parties shall present a consent confidentiality order, supported by a sufficient certification (or statement complying with 28 U.S.C. § 1746) under L. Civ. R. 5.3(b)(2), or (b) in the absence of consent, a party shall, supported by a sufficient certification, apply for entry of a confidentiality order under L. Civ. R. 5.3(b)(5) and L. Civ. R. 37.1(a)(1). The Court will decide those issues and enter the appropriate order, or the Court may enter the District's approved Confidentiality Order as set forth in Appendix S to these Rules if appropriate, in whole or in part.

With respect to all issues of discovery confidentiality, the parties shall comply with all terms of L. Civ. R. 5.3.

2.3. Relationship to Federal Rules of Civil Procedure.

Except as provided in this paragraph or as otherwise ordered, it shall not be a ground for objecting to an opposing party's discovery request (e.g., interrogatory, document request, request for admission, deposition question) or declining to provide information otherwise required to be disclosed pursuant to Fed. R. Civ. P. 26(a)(1) that the discovery request or disclosure requirement is premature in light of, or otherwise conflicts with, these Local Patent Rules, absent other legitimate objection. A party may object, however, to responding to the following categories of discovery requests (or decline to provide information in its initial disclosures under Fed. R. Civ. P. 26(a)(1)) on the ground that they are premature in light of the timetable provided in the Local Patent Rules:

- (a) Requests seeking to elicit a party's claim construction position;
- (b) Requests seeking to elicit a comparison of the asserted claims and the accused apparatus, product, device, process, method, act, or other instrumentality;
- (c) Requests seeking to elicit a comparison of the asserted claims and the prior art; and
- (d) Requests seeking to elicit the identification of any advice of counsel, and related documents.

Where a party properly objects to a discovery request (or declines to provide information in its initial disclosures under Fed. R. Civ. P. 26(a)(1)) as set forth above, that party shall provide the requested information on the date on which it is required to be provided to an opposing party under these Local Patent Rules or as set by the Court, unless there exists another legitimate ground for objection.

2.4. Exchange of Expert Materials.

(a) Disclosures of claim construction expert materials and depositions of such experts are governed by L. Pat. R. 4.1, et seq., unless otherwise ordered by the Court.

(b) Upon a sufficient showing that expert reports related to issues other than claim

construction cannot be rendered until after a claim construction ruling has been entered by the Court, the disclosure of expert materials related to issues other than claim construction will not be required until claim construction issues have been decided.

3. PATENT DISCLOSURES

3.1. Disclosure of Asserted Claims and Infringement Contentions.

Not later than 14 days after the initial Scheduling Conference, a party asserting patent infringement shall serve on all parties a “Disclosure of Asserted Claims and Infringement Contentions.” Separately for each opposing party, the “Disclosure of Asserted Claims and Infringement Contentions” shall contain 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 apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus shall be identified by name or model number, if known. Each method or process shall be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

(c) Other than for design patents, a chart identifying specifically where each limitation of each asserted claim is found within each Accused Instrumentality, 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 the Accused Instrumentality that performs the claimed function;

(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 that contribute to or are inducing that direct infringement. Insofar as alleged direct infringement is based on joint acts of multiple parties, the role of each such party in the direct infringement must be described;

(e) Other than for design patents, 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;

(g) If a party asserting patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party shall identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim; and

(h) If a party asserting patent infringement alleges willful infringement, the basis for such allegation.

3.2. Document Production Accompanying Disclosure.

With the “Disclosure of Asserted Claims and Infringement Contentions,” the party asserting patent infringement shall produce to each opposing party or make available for

inspection and copying:

(a) Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, or any public use of, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102;

(b) All documents evidencing the conception, reduction to practice, design, and development 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. Pat. 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 party asserting patent infringement);

(d) All documents evidencing ownership of the patent rights by the party asserting patent infringement;

(e) If a party identifies instrumentalities pursuant to L. Pat. R. 3.1(g), documents sufficient to show the operation of any aspects or elements of such instrumentalities the party asserting patent infringement relies upon as embodying any asserted claims; and

(f) All documents or things that a party asserting patent infringement intends to rely on in support of any of its infringement contentions under these Rules.

(g) With respect to each of the above document productions, the producing party shall separately identify by production number which documents correspond to each category.

3.2A Non-Infringement Contentions and Responses.

Not later than 45 days after service upon it of the "Disclosure of Asserted Claims and Infringement Contentions," each party opposing an assertion of patent infringement shall serve on all parties its "Non-infringement Contentions and Responses" to Infringement Contentions which shall include the following:

(a) The written basis for its Non-Infringement Contentions and responses;

(b) The party's responses shall follow the order of the infringement claims chart that is required under L. Pat. R. 3.1(c), and shall set forth the party's agreement or disagreement with each allegation therein, including any additional or different claims at issue;

(c) The production or the making available for inspection of any document or thing that it intends to rely on in defense against any such Infringement Contentions.

3.3. Invalidity Contentions.

Not later than 45 days after service upon it of the "Disclosure of Asserted Claims and Infringement Contentions," each party opposing an assertion of patent infringement, shall serve on all parties its "Invalidity Contentions" which shall contain 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);

(b) Whether each item of prior art anticipates each asserted claim or renders it obvious. 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) Other than for design patents, a chart identifying where specifically in each alleged item of prior art each limitation of each asserted claim is 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; and

(d) Any grounds of invalidity based on 35 U.S.C. § 101, indefiniteness under 35 U.S.C. § 112(b) or enablement or written description under 35 U.S.C. § 112(1) of any of the asserted claims including a detailed explanation of the bases for the asserted grounds.

3.4. Document Production Accompanying Invalidity Contentions.

With the “Invalidity Contentions,” the party opposing an assertion of patent infringement shall produce or make available for inspection and copying:

(a) Source code, specifications, schematics, flow charts, artwork, formulas, or other documentation sufficient to show the operation, composition, or structure of any aspects or elements of an Accused Instrumentality identified by the party asserting patent infringement in its L. Pat. R. 3.1(c) chart; and

(b) A copy or sample of the prior art identified pursuant to L. Pat. R. 3.3(a) which does not appear in the file history of the patent(s) at issue. To the extent any such item is not in English, an English translation of the portion(s) relied upon shall be produced.

(c) A party asserting invalidity shall also produce any other document or thing on which it intends to rely in support of its assertion.

(d) With respect to each of the above document productions, the producing party shall separately identify by production number which documents correspond to each category.

3.4A Responses to Invalidity Contentions.

Not later than 14 days after service upon it of the “Invalidity Contentions,” each party defending the validity of the patent shall serve on all parties its “Responses to Invalidity Contentions” which shall include the following:

(a) For each item of asserted prior art, the identification of each limitation of each asserted claim that the party believes is absent from the prior art, except for design patents, where

the party shall supply an explanation why the prior art does not anticipate the claim;

(b) If obviousness is alleged, an explanation of why the prior art does not render the asserted claim obvious;

(c) The party's responses shall follow the order of the invalidity chart required under L. Pat. R. 3.3(c), and shall set forth the party's agreement or disagreement with each allegation therein and the written basis thereof; and

(d) For each asserted grounds of invalidity under L.Pat.R.3.3(d), a detailed explanation of how the asserted claim complies with 35 U.S.C. §112; and

(e) The production or the making available for inspection and copying of any document or thing that the party intends to rely on in support of its Responses herein.

3.5. Disclosure Requirement in Patent Cases for Declaratory Judgment of Invalidity. (a)

Invalidity Contentions If No Claim of Infringement. In all cases in which a party files a complaint or other pleading seeking a declaratory judgment that a patent is invalid, L. Pat. R. 3.1 and 3.2 shall not apply unless and until a claim for patent infringement is made by a party. If the declaratory defendant does not assert a claim for patent infringement in its answer to the complaint, or within 14 days after the Initial Scheduling Conference, whichever is later, the party seeking a declaratory judgment of invalidity shall serve upon each opposing party its Invalidity Contentions that conform to L. Pat. R. 3.3 and produce or make available for inspection and copying the documents described in L. Pat. R. 3.4. Each party opposing the declaratory plaintiff's complaint seeking a declaratory judgment of invalidity shall serve its "Responses to Invalidity Contentions" as required under L. Pat. R. 3.4A.

(b) **Inapplicability of Rule.** This L. Pat. R. 3.5 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, in which case the provisions of L. Pat. R. 3.3 and 3.4 shall govern.

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

The following 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 rule takes precedence over any conflicting provisions in L. Pat. R. 3.1 to 3.5 for all cases arising under 21 U.S.C. § 355.

(a) On the date a party answers, moves, or otherwise responds, each party who is an ANDA filer shall produce to each party asserting patent infringement the entire Abbreviated New Drug Application or New Drug Application that is the basis of the case in question.

(b) Not more than seven days after the initial Scheduling Conference, each party asserting patent infringement shall serve on all parties a "Disclosure of Asserted Claims" that lists each claim of each patent that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted.

(c) Not more than 30 days after the initial Scheduling Conference, each party opposing an assertion of patent infringement shall provide to each party asserting patent infringement the

written basis for its "Invalidity Contentions," for any patents referred to in the opposing party's Paragraph IV Certification, which shall contain all disclosures required by L. Pat. R. 3.3.

(d) Any "Invalidity Contentions" disclosed under L. Pat. R. 3.6(c), shall be accompanied by the production of documents required under L. Pat. R. 3.4(b) and (c).

(e) Not more than 30 days after the initial Scheduling Conference, each party opposing an assertion of patent infringement shall provide to each party asserting patent infringement the written basis for its "Non-Infringement Contentions," for any patents referred to in the opposing party's Paragraph IV Certification which shall include a claim chart 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) is/(are) literally absent from each opposing party's allegedly infringing Abbreviated New Drug Application or New Drug Application.

(f) Any "Non-Infringement Contentions" disclosed under L. Pat. R. 3.6(e), shall be accompanied by the production of any document or thing that each party who is an ANDA filer intends to rely on in defense against any infringement contentions by each party asserting patent infringement.

(g) Not more than 45 days after the disclosure of the "Non-Infringement Contentions" as required by L. Pat. R. 3.6(e), each party asserting patent infringement shall provide each opposing party with a "Disclosure of Infringement Contentions," for all patents referred to in each opposing party's Paragraph IV Certification, which shall contain all disclosures required by L. Pat. R. 3.1. The infringement contentions shall be limited to the claims identified in L. Pat. R. 3.6(b).

(h) Any "Disclosure of Asserted Claims and Infringement Contentions" disclosed under L. Pat. R. 3.6(g), shall be accompanied by the production of documents required under L. Pat. R. 3.2.

(i) Not more than 45 days after the disclosure of "Invalidity Contentions" as required by L. Pat. R. 3.6(c), the party defending the validity of the patent shall serve on each other party its "Responses to Invalidity Contentions" as required under L. Pat. R. 3.4A.

(j) Each party that has an ANDA application pending with the Food and Drug Administration ("FDA") that is the basis of the pending case shall: (1) notify the FDA of any and all motions for injunctive relief no later than three business days after the date on which such a motion is filed; and (2) provide a copy of all correspondence between itself and the FDA pertaining to the ANDA application to each party asserting infringement, or set forth the basis of any claim of privilege for such correspondence pursuant to L. Civ. R. 34.1, no later than seven days after the date it sends same to the FDA or receives same from the FDA.

3.7. Amendments.

Amendment of any contentions, disclosures, or other documents required to be filed or exchanged pursuant to these Local Patent Rules may be made only by order of the Court upon a timely application and showing of good cause. The application shall disclose whether parties consent or object. Non-exhaustive examples of circumstances that may, absent undue prejudice

to the adverse party, support a finding of good cause include: (a) a claim construction by the Court different from that proposed by the party seeking amendment; (b) recent discovery of material prior art despite earlier diligent search; (c) recent discovery of nonpublic information about the Accused Instrumentality which was not discovered, despite diligent efforts, before the service of the Infringement Contentions; (d) disclosure of an infringement contention by a Hatch-Waxman Act party asserting infringement under L. Pat. R. 3.6(g) that requires response by the adverse party because it was not previously presented or reasonably anticipated; and (e) consent by the parties in interest to the amendment and a showing that it will not lead to an enlargement of time or impact other scheduled deadlines. The duty to supplement discovery responses under Fed. R. Civ. P. 26(e) does not excuse the need to obtain leave of Court to amend contentions, disclosures, or other documents required to be filed or exchanged pursuant to these Local Patent Rules.

3.8. Advice of Counsel.

Unless otherwise ordered by the Court, not later than 30 days after entry of the Court's claim construction order, or upon such other date as set by the Court, each party relying upon advice of counsel as part of a patent-related claim or defense for any reason shall:

(a) Produce or make available for inspection and copying any written advice and documents related thereto for which the attorney-client and work product protection have been waived;

(b) Provide a written summary of any oral advice and produce or make available for inspection and copying that summary and documents related thereto for which the attorney-client and work product protection have been waived; and

(c) Serve a privilege log identifying any documents other than those identified in subpart (a) above, except those authored by counsel acting solely as trial counsel, relating to the subject matter of the advice which the party is withholding on the grounds of attorney-client privilege or work product protection.

A party who does not comply with the requirements of this L. Pat. R. 3.8 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.

4. CLAIM CONSTRUCTION PROCEEDINGS

4.1. Exchange of Proposed Terms for Construction.

(a) Not later than 14 days after service of the "Responses to Invalidity Contentions" pursuant to L. Pat. R. 3.4A, not later than 45 days after service upon it of the "Non-Infringement Contentions and Responses" pursuant to L. Pat. R. 3.2A in those actions where validity is not at issue (and L. Pat. R. 3.3 does not apply), or, in all cases in which a party files a complaint or other pleading seeking a declaratory judgment not based on validity, not later than 14 days after the defendant serves an answer that does not assert a claim for patent infringement (and L. Pat. R. 3.1 does not apply), 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 term 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) This rule does not apply to design patents.

4.2. Exchange of Preliminary Claim Constructions and Extrinsic Evidence.

(a) Not later than 21 days after the exchange of the lists pursuant to L. Pat. R. 4.1, the parties shall simultaneously exchange preliminary proposed constructions of each term identified by any party for claim construction, including constructions for each term for which "plain and ordinary" meaning is asserted. 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 intrinsic evidence, 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. With respect to all witnesses including experts, the identifying party shall also provide a description of the substance of that witness' proposed testimony that includes a listing of any opinions to be rendered in connection with claim construction.

(c) Not later than 14 days after the parties exchange the "Preliminary Claim Constructions" under this rule, the parties shall exchange an identification of all intrinsic evidence and extrinsic evidence that each party intends to rely upon to oppose any other party's proposed construction, including without limitation, the evidence referenced in L. Pat. R. 4.2(b).

(d) The parties shall thereafter meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement.

(e) This rule does not apply to design patents.

4.3. Joint Claim Construction and Prehearing Statement.

Not later than 30 days after the exchange of "Preliminary Claim Constructions" under L. Pat. R. 4.2(a), 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 support 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 law, dictionary definitions, citations to learned treatises and prior art, and testimony of all witnesses including experts;

(c) An identification of the terms whose construction will be most significant to the

resolution of the case. The parties shall also identify any term whose construction will be case or claim dispositive or substantially conducive to promoting settlement, and the reasons therefor;

(d) The anticipated length of time necessary for the Claim Construction Hearing; and

(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 summary of his or her testimony including, for any expert, each opinion to be offered related to claim construction.

(f) Any evidence that is not identified under L. Pat. R. 4.2(a) through 4.2(c) inclusive shall not be included in the Joint Claim Construction and Prehearing Statement.

(g) This rule does not apply to design patents.

4.4. Completion of Claim Construction Discovery.

Not later than 30 days after service and filing of the Joint Claim Construction and Prehearing Statement, the parties shall complete all discovery relating to claim construction, including any depositions with respect to claim construction of any witnesses, other than experts, identified in the Preliminary Claim Construction statement (L. Pat. R. 4.2) or Joint Claim Construction and Prehearing Statement (L. Pat. R. 4.3). This rule does not apply to design patents.

4.5. Claim Construction Submissions.

(a) Not later than 45 days after serving and filing the Joint Claim Construction and Prehearing Statement, the parties shall contemporaneously file and serve their opening Markman briefs and any evidence supporting claim construction, including experts' certifications or declarations ("Opening Markman Submissions").

(b) Unless otherwise ordered by the Court, any discovery from an expert witness who submitted a certification or declaration under L. Pat. R. 4.5(a) shall be concluded within 30 days after filing the Opening Markman Submissions.

(c) Not later than 60 days after the filing of the Opening Markman Submissions, the parties shall contemporaneously file and serve responding Markman briefs and any evidence supporting claim construction, including any responding experts' certifications or declarations.

(d) With regard to design patents only, subsections (a), (b), and (c) shall not apply. Where a design patent is at issue, not later than 45 days after the submission of "Non-Infringement Contentions and Responses" under L. Pat. R. 3.2A and/or "Responses to Invalidity Contentions" under L. Pat. R. 3.4A, the parties shall contemporaneously file and serve opening Markman briefs and any evidence supporting claim construction. Not more than 30 days after the filing of the opening Markman briefs, the parties shall contemporaneously file and serve responding Markman briefs and any evidence supporting claim construction.

4.6. Claim Construction Hearing.

Within two weeks following submission of the briefs and evidence specified in L. Pat. R. 4.5(c) and (d), counsel shall confer and propose to the Court a schedule for a Claim Construction Hearing, to the extent the parties or the Court believe a hearing is necessary for construction of

the claims at issue.

Adopted December 11, 2008, Effective January 1, 2009, Amended March 18, 2011, October 4, 2011, June 19, 2013, February 1, 2017

APPENDIX S. DISCOVERY CONFIDENTIALITY ORDER

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Plaintiff,

vs.

Defendant.

Civil Action No.: ____ Civ. ____ (XXX)

DISCOVERY CONFIDENTIALITY ORDER

It appearing that discovery in the above-captioned action is likely to involve the disclosure of confidential information, it is ORDERED as follows:

1. Any party to this litigation and any third-party shall have the right to designate as “Confidential” and subject to this Order any information, document, or thing, or portion of any document or thing: (a) that contains trade secrets, competitively sensitive technical, marketing, financial, sales or other confidential business information, or (b) that contains private or confidential personal information, or (c) that contains information received in confidence from third parties, or (d) which the producing party otherwise believes in good faith to be entitled to protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and Local Civil Rule 5.3. Any party to this litigation or any third party covered by this Order, who produces or discloses any Confidential material, including without limitation any information, document, thing, interrogatory answer, admission, pleading, or testimony, shall mark the same with the foregoing or similar legend: “CONFIDENTIAL” or “CONFIDENTIAL – SUBJECT TO DISCOVERY CONFIDENTIALITY ORDER” (hereinafter “Confidential”).

2. Any party to this litigation and any third-party shall have the right to designate as “Attorneys’ Eyes Only” and subject to this Order any information, document, or thing, or portion of any document or thing that contains highly sensitive business or personal information, the disclosure of which is highly likely to cause significant harm to an individual or to the business or competitive position of the designating party. Any party to this litigation or any third party who is covered by this Order, who produces or discloses any Attorneys’ Eyes Only material, including without limitation any information, document, thing, interrogatory answer, admission, pleading, or testimony, shall mark the same with the foregoing or similar legend: “ATTORNEYS’ EYES ONLY” or “ATTORNEYS’ EYES ONLY – SUBJECT TO DISCOVERY CONFIDENTIALITY ORDER” (hereinafter “Attorneys’ Eyes Only”).

3. All Confidential material shall be used by the receiving party solely for purposes of the prosecution or defense of this action, shall not be used by the receiving party for any business, commercial, competitive, personal or other purpose, and shall not be disclosed by the receiving party to anyone other than those set forth in Paragraph 4, unless and until the

restrictions herein are removed either by written agreement of counsel for the parties, or by Order of the Court. It is, however, understood that counsel for a party may give advice and opinions to his or her client solely relating to the above-captioned action based on his or her evaluation of Confidential material, provided that such advice and opinions shall not reveal the content of such Confidential material except by prior written agreement of counsel for the parties, or by Order of the Court.

4. Confidential material and the contents of Confidential material may be disclosed only to the following individuals under the following conditions:

- a. Outside counsel (herein defined as any attorney at the parties' outside law firms) and relevant in-house counsel for the parties;
- b. Outside experts or consultants retained by outside counsel for purposes of this action, provided they have signed a non-disclosure agreement in the form attached hereto as Exhibit A;
- c. Secretarial, paralegal, clerical, duplicating and data processing personnel of the foregoing;
- d. The Court and court personnel;
- e. Any deponent may be shown or examined on any information, document or thing designated Confidential if it appears that the witness authored or received a copy of it, was involved in the subject matter described therein or is employed by the party who produced the information, document or thing, or if the producing party consents to such disclosure;
- f. Vendors retained by or for the parties to assist in preparing for pretrial discovery, trial and/or hearings including, but not limited to, court reporters, litigation support personnel, jury consultants, individuals to prepare demonstrative and audiovisual aids for use in the courtroom or in depositions or mock jury sessions, as well as their staff, stenographic, and clerical employees whose duties and responsibilities require access to such materials; and
- g. The parties. In the case of parties that are corporations or other business entities, "party" shall mean executives who are required to participate in decisions with reference to this lawsuit.

5. Confidential material shall be used only by individuals permitted access to it under Paragraph 4. Confidential material, copies thereof, and the information contained therein, shall not be disclosed in any manner to any other individual, until and unless (a) outside counsel for the party asserting confidentiality waives the claim of confidentiality, or (b) the Court orders such disclosure.

6. With respect to any depositions that involve a disclosure of Confidential material of a party to this action, such party shall have until thirty (30) days after receipt of the deposition transcript within which to inform all other parties that portions of the transcript are to be designated Confidential, which period may be extended by agreement of the parties. No such deposition transcript shall be disclosed to any individual other than the individuals described in Paragraph 4(a), (b), (c), (d) and (f) above and the deponent during these thirty (30) days, and no individual attending such a deposition shall disclose the contents of the deposition to any individual other than those described in Paragraph 4(a), (b), (c), (d) and (f) above during said

thirty (30) days. Upon being informed that certain portions of a deposition are to be designated as Confidential, all parties shall immediately cause each copy of the transcript in its custody or control to be appropriately marked and limit disclosure of that transcript in accordance with Paragraphs 3 and 4.

7. Material produced and marked as Attorneys' Eyes Only may be disclosed only to outside counsel for the receiving party and to such other persons as counsel for the producing party agrees in advance or as Ordered by the Court.

8. If counsel for a party receiving documents or information designated as Confidential or Attorneys' Eyes Only hereunder objects to such designation of any or all of such items, the following procedure shall apply:

(a) Counsel for the objecting party shall serve on the designating party or third party a written objection to such designation, which shall describe with particularity the documents or information in question and shall state the grounds for objection. Counsel for the designating party or third party shall respond in writing to such objection within 14 days, and shall state with particularity the grounds for asserting that the document or information is Confidential or Attorneys' Eyes Only. If no timely written response is made to the objection, the challenged designation will be deemed to be void. If the designating party or nonparty makes a timely response to such objection asserting the propriety of the designation, counsel shall then confer in good faith in an effort to resolve the dispute.

(b) If a dispute as to a Confidential or Attorneys' Eyes Only designation of a document or item of information cannot be resolved by agreement, the proponent of the designation being challenged shall present the dispute to the Court initially by telephone or letter, in accordance with Local Civil Rule 37.1(a)(1), before filing a formal motion for an order regarding the challenged designation. The document or information that is the subject of the filing shall be treated as originally designated pending resolution of the dispute.

9. Any document designated "Confidential" or "Attorneys' Eyes Only" by a party or non-party and which document is filed with the Court shall be filed under seal, in accordance with Local Civil Rule 5.3.

10. If the need arises during trial or at any Hearing before the Court for any party to disclose Confidential or Attorneys' Eyes Only information, it may do so only after giving notice to the producing party and as directed by the Court.

11. To the extent consistent with applicable law, the inadvertent or unintentional disclosure of Confidential material that should have been designated as such, regardless of whether the information, document or thing was so designated at the time of disclosure, shall not be deemed a waiver in whole or in part of a party's claim of confidentiality, either as to the specific information, document or thing disclosed or as to any other material or information concerning the same or related subject matter. Such inadvertent or unintentional disclosure may be rectified by notifying in writing counsel for all parties to whom the material was disclosed that the material should have been designated Confidential within a reasonable time after disclosure. Such notice shall constitute a designation of the information, document or thing as Confidential under this Discovery Confidentiality Order.

12. When the inadvertent or mistaken disclosure of any information, document or thing protected by privilege or work-product immunity is discovered by the producing party and brought to the attention of the receiving party, the receiving party's treatment of such material shall be in accordance with Federal Rule of Civil Procedure 26(b)(5)(B). Such inadvertent or mistaken disclosure of such information, document or thing shall not by itself constitute a waiver by the producing party of any claims of privilege or work-product immunity. However, nothing herein restricts the right of the receiving party to challenge the producing party's claim of privilege if appropriate within a reasonable time after receiving notice of the inadvertent or mistaken disclosure.

13. No information that is in the public domain or which is already known by the receiving party through proper means or which is or becomes available to a party from a source other than the party asserting confidentiality, rightfully in possession of such information on a non-confidential basis, shall be deemed or considered to be Confidential material under this Discovery Confidentiality Order.

14. This Discovery Confidentiality Order shall not deprive any party of its right to object to discovery by any other party or on any otherwise permitted ground. This Discovery Confidentiality Order is being entered without prejudice to the right of any party to move the Court for modification or for relief from any of its terms.

15. This Discovery Confidentiality Order shall survive the termination of this action and shall remain in full force and effect unless modified by an Order of this Court or by the written stipulation of the parties filed with the Court.

16. Upon final conclusion of this litigation, each party or other individual subject to the terms hereof shall be under an obligation to assemble and to return to the originating source all originals and unmarked copies of documents and things containing Confidential material and to destroy, should such source so request, all copies of Confidential material that contain and/or constitute attorney work product as well as excerpts, summaries and digests revealing Confidential material; provided, however, that counsel may retain complete copies of all transcripts and pleadings including any exhibits attached thereto for archival purposes, subject to the provisions of this Discovery Confidentiality Order. To the extent a party requests the return of Confidential material from the Court after the final conclusion of the litigation, including the exhaustion of all appeals therefrom and all related proceedings, the party shall file a motion seeking such relief.

IT IS SO ORDERED.

Dated: _____, U.S.M.J.

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Plaintiff,

vs.

Defendant.

Civil Action No.: __ Civ. ____ (XX)

AGREEMENT TO BE BOUND BY DISCOVERY CONFIDENTIALITY ORDER

I, _____, being duly sworn, state that:

1. My address is _____.
2. My present employer is _____ and the address of my present employment is _____.
3. My present occupation or job description is _____.
4. I have carefully read and understood the provisions of the Discovery Confidentiality Order in this case signed by the Court, and I will comply with all provisions of the Discovery Confidentiality Order.
5. I will hold in confidence and not disclose to anyone not qualified under the Discovery Confidentiality Order any Confidential Material or any words, summaries, abstracts, or indices of Confidential Information disclosed to me.
6. I will limit use of Confidential Material disclosed to me solely for purpose of this action.
7. No later than the final conclusion of the case, I will return all Confidential Material and summaries, abstracts, and indices thereof which come into my possession, and documents or things which I have prepared relating thereto, to counsel for the party for whom I was employed or retained.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____ [Name]

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Plaintiff(s)	:	Civil Action No.
v.	:	Hon.
Defendant(s)	:	JOINT PROPOSED DISCOVERY PLAN

1. Set forth the name of each attorney appearing, the firm name, address and telephone number and facsimile number of each, designating the party represented.
2. Set forth a brief description of the case, including the causes of action and defenses asserted.
3. Have settlement discussions taken place? Yes _____ No _____
 - (a) What was plaintiff's last demand?
 - (1) Monetary demand: \$ _____
 - (2) Non-monetary demand: _____
 - (b) What was defendant's last offer?
 - (1) Monetary offer: \$ _____
 - (2) Non-monetary offer: _____
4. The parties [have _____ have not _____] met pursuant to Fed. R. Civ. P. 26(f):

5. The parties [have _____ have not _____] exchanged the information required by Fed. R. Civ. P. 26(a)(1). If not, state the reason therefor.
6. Explain any problems in connection with completing the disclosures required by Fed R. Civ. P. 26(a)(1)
7. The parties [have _____ have not _____] filed disclosures of third-party litigation funding. See Local Civil Rule 7.1.1.
8. The parties [have _____ have not _____] conducted discovery other than the above disclosures. If so, describe.
9. Proposed joint discovery plan:
 - (a) Discovery is needed on the following subjects:
 - (b) Discovery [should _____ should not _____] be conducted in phases or be limited to particular issues. Explain.
 - (1) Fed. R. Civ. P. 26 Disclosures _____.
 - (c) Proposed schedule:
 - (2) E-Discovery conference pursuant to L. Civ. R. 26.1(d) _____.
 - (3) Service of initial written discovery _____.
 - (4) Maximum of _____ Interrogatories by each party to each other party.
 - (5) Maximum of _____ depositions to be taken by each party.
 - (6) Motions to amend or to add parties to be filed by _____.
 - (7) Factual discovery to be completed by _____.
 - (8) Plaintiff's expert report due on _____.
 - (9) Defendant's expert report due on _____.
 - (10) Expert depositions to be completed by _____.
 - (11) Dispositive motions to be served within _____ days of completion of discovery.
 - (d) Set forth any special discovery mechanism or procedure requested.

- (e) A pretrial conference may take place on _____.
- (f) Trial date: _____ (_____ Jury Trial; _____ Non-Jury Trial).
9. Do you anticipate any special discovery needs (i.e., videotape/telephone depositions, problems with out-of-state witnesses or documents, etc)? Yes _____ No _____.
If so, please explain.
10. Do you anticipate any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced?
Yes _____ No _____.

If so, how will electronic discovery or data be disclosed or produced? Describe any agreements reached by the parties regarding same, including costs of discovery, production, related software, licensing agreements, etc.
11. Do you anticipate entry of a Discovery Confidentiality Order? See L.Civ.R. 5.3(b) and Appendix S.
12. Do you anticipate any discovery problem(s) not listed above? Describe.
Yes _____ No _____.
13. State whether this case is appropriate for voluntary arbitration (pursuant to Local Civil Rule 201.1 or otherwise) or mediation (pursuant to Local Civil Rule 301.1 or otherwise).
If not, explain why and state whether any such procedure may be appropriate at a later time (i.e., after exchange of pretrial disclosures, after completion of depositions, after disposition or dispositive motions, etc.).
14. Is this case appropriate for bifurcation? Yes _____ No _____
15. An interim status/settlement conference (with clients in attendance), should be held in _____.
16. We [do _____ do not _____] consent to the trial being conducted by a Magistrate Judge.
17. Identify any other issues to address at the Rule 16 Scheduling Conference.

Attorney(s) for Plaintiff(s) / Date

Attorney(s) for Defendant(s) / Date

RULES AND PROCEDURES
JUDGE RENÉE MARIE BUMB

Chambers
United States District Court
District of New Jersey
Mitchell H. Cohen Courthouse
4th & Cooper Streets
Camden, New Jersey 08101
Tel: (856) 757-5020
Courtroom: 3D

Deputy Clerk
Art Roney
(856) 757-5014

Unless otherwise ordered by the Court, the following rules and procedures apply to all matters before this Court:

I. Civil Motion Practice

A. Pre-Motion Conference

In an effort to resolve cases expeditiously, before bringing a motion to dismiss, motion for a more definite statement, motion to remand, motion for change of venue, and motion for judgment on the pleadings, a party must submit a letter, not to exceed three (3) single-spaced pages, requesting a pre-motion conference. The letter must set forth the basis for the anticipated motion and include citations to relevant authority. Within seven (7) days after receipt of this letter, all adversaries must submit a written response, not to exceed three (3) single-spaced pages. No party may submit a reply letter. Generally, affidavits and exhibits are not permitted. A proffer by the attorney, however, of the contents of any such affidavit(s) and/or exhibit(s) shall suffice.

The Court will attempt to resolve the dispute(s) at a pre-motion conference (in person or via telephone), to the extent possible. If the dispute cannot be resolved at the conference (or the Court determines that a conference would not be helpful), the moving party will file its motion. To be clear, this procedure does not preclude a party from filing one of the above motions pursuant to Local Civil Rule 12.1. Rather, the Court hopes to use this procedure to advance the case efficiently and minimize the costs of litigation to the parties. In addition, compliance with this procedure shall not be deemed a waiver of any parties' defenses as to insufficient service of process or lack of personal jurisdiction.

A party's submission of a pre-motion letter will toll that party's time to file its motion (or answer) through (i) the date of the pre-motion conference or (ii) the Court's decision not to conduct such a conference. If the Court permits a party to file its proposed motion without a conference, that party shall have an additional 7 days to file after its Fed. R. Civ. P. 12(a) deadline, unless additional time is stipulated.

This letter exchange does not apply in cases in which either side is *pro se* or in bankruptcy or social security appeals.

B. Motion Days and Oral Argument

The only purpose of a motion's return date or "motion day" is to determine the briefing schedule for that motion. The Court generally will not hear oral argument on the return date. Rather, if the Court decides to hear oral argument on any issue, it will advise counsel of the argument date.

C. Adjournments

All requests for adjournments or extensions of time, other than those pursuant to Local Rule 7.1(d)(5), must comport with Local Rule 6.1 and include: (1) the date or dates sought to be extended; (2) the number of previous requests for extensions and the Court's rulings; (3) the reason for the current request; and (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent. If the requested extension affects any other scheduled dates, the request must list the proposed change for all such other dates.

D. Exhibits

To the extent any party submits exhibits to support a motion, such exhibits shall be clearly labeled, dated, tabbed, and indexed.

II. Communications with Chambers

A. Faxes and E-Mails

Chambers does not accept faxes or e-mail.

B. Letters

All communications with Chambers shall be by letter electronically filed via ECF. No hard copies of letters shall be delivered to the Court. *Pro se* parties are exempt from this requirement.

C. Docketing, Scheduling, or Calendar Matters

For docketing, scheduling, or calendar matters, please contact Courtroom Deputy Art Roney at (856) 757-5014 between the hours of 9:00am and 4:00pm.

D. Telephone Calls

Please do not contact Chambers with legal or procedural questions that are covered by the Local Rules of this Court or the Federal Rules of Civil Procedure.

III. Submissions

A. Electronic submissions

All parties, with the exception of *pro se* parties, shall file all documents, in both civil and criminal matters, via ECF. All papers electronically submitted shall, to the extent possible, be submitted in a text-searchable PDF format.

B. Courtesy Copies

The parties shall provide courtesy copies of all briefs and supporting papers consistent with Local Rule 7.1(g).

IV. RICO Cases

In all matters in which the complaint contains a RICO claim, pursuant to 18 U.S.C. §§ 1961-1968, the plaintiff(s) must file a RICO Case Statement within thirty (30) days of filing the complaint, in accordance with Appendix O of the Local Rules & Appendices found at: <http://www.njd.uscourts.gov/LocalRules.html>.

V. Patent Cases

The Court does not permit the filing of summary judgment motions in ANDA patent cases. A party may, however, submit a letter to the Court, not to exceed three single-spaced pages, seeking a waiver of this rule if the party believes that a summary judgment motion would assist the Court in expeditiously resolving the case and would resolve more than mere tangential issues. The letter must set forth the basis for the proposed motion for summary judgment, with citations to relevant authority, and the issue(s) expected to be resolved by the motion. Within five (5) business days after receipt of this letter, all adversaries must submit a written response, not to exceed three (3) single-spaced pages.

No party may submit a reply letter.

VI. Class Action Cases

It is the Court's practice to conduct a preliminary settlement approval hearing in advance of the final settlement approval hearing required by Fed. R. Civ. P. 23(e). At the preliminary approval hearing the parties shall be prepared to address, in a reasonably comprehensive manner, all of the factors the Court will consider at the final approval hearing, including but not limited to the factors enumerated in Fed. R. Civ. P. 23(e), Girsh v. Jepson, 521 F.2d 153, 157 (3d Cir. 1975), and In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions, 148 F.3d 283, 323 (3d Cir. 1998).

VII. Trials

A. Pre-Trial Briefs or Proposed Findings of Fact and Conclusions of Law, and *In Limine* Motions

Once the Joint Final Pretrial Order has been filed, each party shall submit its pre-trial brief or its proposed findings of fact and conclusions of law, and any *in limine* motions at least three weeks before the start of trial. Any responsive papers shall be submitted at least two weeks before the start of trial.

B. Jury Selection

1. Jury Questionnaire

Counsel for all parties must confer with each other prior to trial and submit a joint jury questionnaire three weeks before trial in hard copy form, accompanied by a disc containing the questionnaire, preferably in Word format. Any additional proposed questions that could not be agreed upon should be submitted by the propounding party to the Court at the same time.

2. Juror Voir Dire

At trial, prospective jurors will complete the juror questionnaire. Any follow-up questions will be asked by Judge Bumb at sidebar.

3. Challenges for Cause and Peremptory Challenges

Challenges for cause and any Batson challenges will be heard at sidebar.

Peremptory challenges are exercised in writing with counsel marking challenges on a sheet presented to them by the Courtroom Deputy Clerk.

Peremptory challenges are exercised in turn, with each side exercising one challenge at a time. In the event there are two passes in succession, the process ends. A pass is otherwise considered a forfeited peremptory challenge.

The Clerk or the Judge will announce any jurors that are excused.

C. Jury Charges

Counsel for all parties must confer with each other prior to trial and submit joint requests to charge three weeks before trial in hard copy form, accompanied by a disc containing the charges, preferably in Word format. Any additional proposed charges that could not be agreed upon should be submitted by the propounding party to the Court at the same time. Judge Bumb does not charge the jury on substantive matters at the beginning of trial or mid-trial but will generally charge the jury before counsel make their closing arguments. She provides jurors with a written copy of the jury charge. Counsel are to delineate in their submissions charges they wish to be given before trial, including a joint preliminary statement

of the case, and charges they wish to be given at the close of trial. Counsel shall cite to the applicable authority for each proposed charge.

D. Verdict Sheet

Counsel for all parties must confer with each other prior to trial and submit a joint verdict sheet three weeks before trial in hard copy form, accompanied by a disc containing the verdict sheet, preferably in Word format. If counsel cannot agree on a joint verdict sheet, counsel shall separately submit proposed verdict sheets in the same manner.

E. Exhibits

Each party shall submit a list of pre-marked exhibits and a witness list, including the name and address (city and state only) of each potential witness, one week prior to trial. All trial exhibits must be pre-marked in accordance with each party's exhibit list. Counsel retain custody of their trial exhibits until closings. Judge Bumb does not send weapons, narcotics, currency and the like into the jury room. If jurors wish to see such an exhibit during deliberations, they are permitted to do so in the emptied courtroom with only a Deputy Marshal present. The prosecuting attorney and/or investigating agency is generally required to maintain custody of exhibits such as weapons, narcotics, or currency during trial.

F. Juror Note Taking

Judge Bumb allows juror note taking in most cases.

G. Juror Questioning

Judge Bumb does not permit jurors to submit questions to the Court to be posed to witnesses.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

X,

Plaintiff,

v.

X,

Defendant.

Civil Action No.

XXX

PRETRIAL SCHEDULING ORDER

THIS MATTER having come before the Court for a scheduling conference pursuant to Rule 16 of the Federal Rules of Civil Procedure on __, and for good cause shown:

IT IS on this __ day of __, 2021,

ORDERED THAT:

I. DISCLOSURES

1. Fed. R. Civ. P. 26 disclosures are to be exchanged no later than ____.

II. DISCOVERY

2. Fact discovery is to remain open through _____. No fact discovery is to be issued or engaged in beyond that date, except upon application and for good cause shown.

3. The parties may begin to serve interrogatories (limited to twenty-five (25) single questions) and requests for production of documents on ____, to be responded to within thirty (30) days of receipt.

4. Depositions of fact witnesses and individuals who will give lay opinion testimony based on particular competence in an area are to be completed by _____. No objections to questions posed at depositions shall be made other than as to lack of foundation, form, or privilege. See Fed. R. Civ. P. 32(d)(3)(A). No instruction not to answer shall be given unless a privilege is implicated.

5. Plaintiffs shall serve their Disclosure of Asserted Claims pursuant to L. Pat. R. 3.6(b) on or before _____.
6. Defendants shall serve their Invalidity Contentions pursuant to L. Pat. R. 3.6(c) on or before _____.
7. Defendants shall serve their Non-Infringement Contentions pursuant to L. Pat. R. 3.6(e) on or before _____.
8. Plaintiffs shall serve their Infringement Contentions pursuant to L. Pat. R. 3.6(g) on or before _____.
9. Plaintiffs shall serve their Responses to Defendants' Invalidity Contentions pursuant to L. Pat. R. 3.6(i) on or before _____.
10. The parties shall exchange proposed claim terms for construction pursuant to L. Pat. R. 4.1(a) on or before _____.
11. The parties shall exchange preliminary proposed constructions and identification of extrinsic evidence pursuant to L. Pat. R. 4.2(a) – (b) on or before _____.
12. The parties shall exchange identifications of all intrinsic and extrinsic evidence they intend to rely upon in opposing any proposed claim construction, pursuant to L. Pat. R. 4.2(c), on or before _____. The parties shall thereafter meet and confer to narrow the issues in dispute.
13. The parties shall file a Joint Claim Construction and Prehearing Statement pursuant to L. Pat. R. 4.3 (a) – (e) on or before _____.
14. The parties shall complete fact discovery relating to claim construction pursuant to L. Pat. R. 4.4 on or before _____.
15. The parties shall file and serve their opening *Markman* submissions pursuant to L. Pat. R. 4.5 (a) on or before _____.
16. The parties shall complete expert discovery pertaining to *Markman* issues on or before _____.
17. The parties shall file and serve their responding *Markman* submissions on or before _____.
18. On or before _____, the parties shall submit to the Court a proposed schedule for a *Markman* hearing.
19. Counsel shall confer in a good faith attempt to informally resolve any and all discovery or case management disputes **before** seeking the Court's intervention. See L. Civ. R.

37.1(a)(1); see also L. Civ. R. 16.1(f)(1). Any dispute not resolved shall be brought to the Court's attention by letter or telephone conference after the parties' good faith attempt to resolve the dispute has failed. Counsel shall advise the Court of the specific efforts that were made to resolve the dispute before contacting the Court. **No discovery motion shall be made without prior leave of Court.**

III. DISCOVERY CONFIDENTIALITY ORDERS

20. Any proposed Discovery Confidentiality Order agreed to by the parties must strictly comply with Fed. R. Civ. P. 26(c) and L. Civ. R. 5.3. See also Glenmede Trust Co. v. Thompson, 56 F.3d 476 (3d Cir. 1995); Pansy v. Borough of Stroudsburg, 23 F.3d 772 (3d Cir. 1994). The parties are advised that a sample form of Discovery Confidentiality Order is contained in Appendix S to the Local Civil Rules.

IV. FUTURE CONFERENCES

21. There shall be a telephonic status conference before the undersigned on _____. The parties shall electronically file concise status letters no later than three business days in advance of the conference. Dial-in information for the conference is (888) 684-8852, access code 8948139.

22. The Court may from time to time schedule further conferences as may be required, either *sua sponte* or at the request of a party.

23. Counsel should be prepared to discuss settlement at every conference with the Court. The senior attorney in charge of the case must attend all settlement conferences and client(s) with full settlement authority must attend unless excused by the Court. In cases involving insurance companies and other corporate or business entities, it is expected that the executive who will make the final decision on the settlement will be the person available for the conference. Confidential settlement letters shall be sent to **LDW_orders@njdcourts.gov** at least three business days prior to the conference.

24. Since all dates set forth herein are established with the assistance and knowledge of counsel, there will be no extensions except for good cause shown and by leave of Court, even with consent of all counsel.

25. A copy of every pleading, document, or written communication with the Court shall be served on all other parties to the action or may be disregarded by the Court.

V. MOTIONS

26. **No motions are to be filed without prior written permission from this Court, excepting motions in lieu of Answer under Fed. R. Civ. P. 12.** These prerequisites must be met before any motions are filed and the motions will be returned if not met. All calendar or dispositive motions, if permitted, shall comply with L. Civ. R. 7.1(b) and other applicable local and federal rules.

27. Any request for leave to file a motion to add new parties or amend pleadings, whether by amended or third-party complaint, must be filed not later than _____. Before seeking Court leave to file a motion to amend a pleading, a party shall circulate the proposed amended pleading among all parties in an effort to obtain consent to the amendment. Any request for leave of the Court to file a motion to amend shall contain a redlined version of the proposed amended pleading as an exhibit.

28. All dispositive motions must first be subject to a dispositive motion pre-hearing. Discovery generally must be completed prior to the filing of a dispositive motion.

VI. EXPERTS

29. All affirmative expert reports shall be delivered by _____. Any such report shall comport with the form and content requirements of Fed. R. Civ. P. 26(a)(2)(B).

30. All responding expert reports shall be delivered by _____. Any such report shall comport with the form and content requirements referenced above.

31. No expert shall testify at trial as to any opinions or base those opinions on facts not substantially disclosed in his report.

32. Expert discovery, including the depositions of any expert witnesses, shall be completed on or before _____.

VII. FINAL PRETRIAL CONFERENCE

33. A final pretrial conference shall be conducted pursuant to Fed. R. Civ. P. 16(e) **at a time and date to be assigned.**

34. All counsel are directed to assemble at the office of plaintiff's counsel not later than ten (10) days before the final pretrial conference to prepare the Final Pretrial Order in compliance with the form and content requirements of the Court. Plaintiff's counsel shall prepare the Final Pretrial Order and shall submit it to all other counsel for approval before submitting it to the Court.

35. The original of the Final Pretrial Order shall be delivered to Chambers in hard copy not later than **three full business days** before the final pretrial conference. All counsel are responsible for the timely submission of the Final Pretrial Order.

36. **FAILURE TO FOLLOW THIS ORDER MAY RESULT IN SANCTIONS PURSUANT TO Fed. R. Civ. P. 16(f) and 37.**

Hon. Leda Dunn Wettre

United States Magistrate Judge

Original: Clerk of the Court
cc: Hon. _____, U.S.D.J.
All Parties

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: VIDEO CONFERENCING AND :
TELECONFERENCING FOR CRIMINAL : **SECOND EXTENSION OF**
PROCEEDINGS UNDER THE CARES ACT : **STANDING ORDER 2021-03**

WHEREAS, due to the continuing COVID-19 pandemic, the National Emergency, first declared on March 13, 2020, by the President, remains in effect, as does the national public health emergency, renewed again by the federal government on July 20, 2021; and

WHEREAS, on March 27, 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), authorizing the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant, for various criminal case events, during the course of the COVID-19 emergency, see The CARES Act, H.R. 748, pursuant to certain findings by the Judicial Conference of the United States; and

WHEREAS, on March 29, 2020, the Judicial Conference found that emergency conditions, consistent with the national emergency declared with respect to COVID-19, will materially affect the functioning of the federal courts (“Judicial Conference’s finding”), and the Judicial Conference has not terminated that finding; and

WHEREAS, as Chief Judge, I found, on March 30, 2020, June 28, 2020, September 23, 2020, December 17, 2020, March 11, 2021, and June 9, 2021, pursuant to Sections 15002(b)(1) and (b)(2) of the CARES Act, that criminal proceedings, and specifically, felony pleas and felony sentencings, could not be conducted in person without seriously jeopardizing public health and safety, and therefore entered Orders authorizing the use of video and telephone conferencing in criminal proceedings in conformance with the CARES Act (“the Court’s prior CARES Act Orders”); and

WHEREAS, pursuant to Section 15002(b)(3) of the CARES Act, this Court’s most recent authorization of the use of video and telephone conferencing in criminal proceedings, in accordance with the CARES Act, set forth in its June 9, 2021 Extension of Standing Order 2021-03, is due to be reviewed within 90 days thereof, or by September 7, 2021; and

WHEREAS, due to the continued caution warranted under the exigent circumstances of COVID-19, the provisions of this Court’s May 19, 2021 Amended Extension of Standing Order 2021-02, limiting in-person judicial proceedings, in both criminal and civil matters, to those deemed necessary by the presiding judicial officer, remain in full force and effect; and

WHEREAS, the transmission of COVID-19 has recently increased, due to the presence of the virulent delta and other variants of the virus, resulting in all 21 counties of New Jersey being areas of high transmission of COVID-19; and

WHEREAS, on July 27, 2021, the CDC recommended that all persons, including those fully vaccinated against COVID-19, wear a mask in public indoor settings, in areas of substantial or high transmission, such as in all areas of this District; and

WHEREAS, the Safer Workforce Task Force, established by President Biden's Executive Order No. 13991, recommended in its COVID-19 Workplace Safety Agency Model Safety Principles, issued on July 29, 2021, that all executive branch employees become fully vaccinated or submit to weekly testing, and President Biden implemented those Principles on August 6, 2021; and

WHEREAS, in light of these conditions and recommended safety precautions, this Court has adopted a policy of mandatory vaccination of its employees, in addition to continuing its earlier instituted protocols of temperature taking of and hand sanitizing by all entrants to the District's courthouses, as well as mask wearing in all public areas of Court facilities by entrants and occupants thereof, regardless of vaccination status; and

WHEREAS, as Chief Judge, I find, therefore, that there are still enhanced risks of in-person proceedings to defendants, the population of detention centers, and to court participants, as well as limited in-person meetings with legal counsel; and

WHEREAS, the afore-mentioned national emergency declaration and the Judicial Conference's finding remain in effect; and

WHEREAS, I further find that the afore-mentioned enhanced risks and conditions are expected to exist for all or substantially all of the period of time covered by this Order, and that video and teleconference proceedings held pursuant to the Court's prior CARES Act Orders have been effective and have substantially furthered the ends of justice and have substantially avoided causing serious harm to the interests of justice, particularly as to the interests of the defendants who have consented to the same; and

WHEREAS, I, as Chief Judge, find, pursuant to Section 15002(b)(1) of the CARES Act, that due to the continuing effects of COVID-19, many criminal proceedings still cannot be conducted in person without seriously jeopardizing public health and safety, and that pursuant to Section 15002(b)(2) of the CARES Act, many felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and many felony sentencing under Rule 32 of the Federal Rules of Criminal Procedure also cannot be conducted in person in this Court without seriously jeopardizing public health and safety; it is hereby

ORDERED, pursuant to Section 15002(b)(3) of the CARES Act, that the authorization in the Court's prior CARES Act Orders of the use of video and telephone conferencing in criminal proceedings is further extended for an additional 90 days from the date of this Order, unless this Order is terminated or vacated prior to such date according to the procedures set forth in the last paragraph of this Order; and it is further

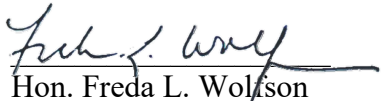
ORDERED that, in lieu of personal appearance, and with the consent of the defendant after consultation with counsel, video conferencing, or telephone conferencing if video conferencing is not reasonably available, is continued to be authorized for all events listed

in Section 15002(b) of the CARES Act, including the ten criminal proceedings enumerated in the Second Extension of Amended Standing Order 2020-06; and it is further

ORDERED that if a judge in an individual case finds, for specific reasons, that any felony plea or felony sentencing, or any equivalent plea and sentencing, as well as proceedings under the Federal Juvenile Delinquency Act, cannot be further delayed without serious harm to the interests of justice, then, with the consent of the defendant, or the juvenile, after consultation with counsel, the plea, sentencing or any equivalent proceeding, may be conducted by video conference, or by telephone conference if video conferencing is not reasonably available; and it is further

ORDERED that if, 90 days from the date of this Order, the emergency declaration remains in effect, along with the Judicial Conference's finding that the emergency conditions will materially affect the functioning of the federal courts, the Chief Judge shall review the authorization described in this Order and determine whether it shall be further extended. Pursuant to Section 15002(b)(3)(A) of the CARES Act, such review will occur at least once every 90 days, until the last day of the covered emergency period, or until the Chief Judge determines that the authorization is no longer warranted. Should the above-referenced emergency declaration or the Judicial Conference's finding terminate or be revoked prior to the expiration of 90 days from the date of this Order, then this Order may then be vacated according to law.

DATED: September 2, 2021


Hon. Freda L. Wolfson
U.S. Chief District Judge
District of New Jersey

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: COVID-19 VACCINATION AND TESTING :
REQUIREMENTS OF VISITORS TO COURT :
FACILITIES AND OF FEDERAL DETAINEES : STANDING ORDER 2021-08
IN THE DISTRICT OF NEW JERSEY :**

This Standing Order is issued in response to the recent increase in the transmission of COVID-19, due to the delta and other variants, and actions taken by several authorities, including:

The CDC's guidance, on July 27, 2021, advising all persons, including those fully vaccinated,* to wear a mask in public indoor settings, in areas of substantial or high transmission;

The directives of the Safer Federal Workforce Task Force ("Task Force"), established pursuant to President Biden's Executive Order No. 13991, in its COVID-19 Workplace Safety: Agency Model Safety Principles ("Model Safety Principles"), issued on July 29, 2021;

President Biden's announcement, on August 6, 2021, of testing and other requirements of Executive Branch employees and onsite federal contractors who are not fully vaccinated against the virus, implementing the Task Force's Model Safety Principles;

The mandate, on August 23, 2021, by New Jersey Governor, Phil Murphy, that all state employees, including those at state agencies, authorities, public colleges and universities, be fully vaccinated by October 18, 2021, or submit to regular COVID-19 testing;

The New Jersey State Judiciary requirement that all of its employees become fully vaccinated or submit to regular COVID-19 testing;

The full and final approval by the U.S. Food and Drug Administration of the widely available Pfizer vaccine, on August 23, 2021; and

President Biden's Executive Order of September 9, 2021, removing the testing option previously allowed, pursuant to the Task Force's Model Safety Principles, and requiring that Executive Branch employees be fully vaccinated against COVID-19.

* A person is considered fully vaccinated two weeks after receiving the second dose in a 2-dose series (e.g., Pfizer, Moderna) or two weeks after receiving a single-dose vaccine (e.g., Johnson & Johnson).

In consideration of the above actions taken, and the fact that all 21 counties of New Jersey are areas of high transmission of the virus, and, to protect the health and safety of the public and Court staff, this Court recently established a policy mandating that all employees of the U.S. District Court, U.S. Bankruptcy Court, Probation, and Pretrial Services, in the District of New Jersey (“Court employees”), be fully vaccinated by October 19, 2021. The Court now finds it necessary and appropriate to adopt the following requirements, applicable to all persons other than Court employees (“visitors”), seeking entry into any U.S. Courthouse or any site of a Probation or Pretrial Services Office, in the District of New Jersey (“Court facilities”), with the exception of: petit and grand jurors; individuals younger than 12 years of age; and persons who will be onsite in Court facilities for less than 15 minutes (“excepted persons”).

IT IS, THEREFORE ORDERED, regarding visitors generally, that:

1. Subject to further specifications noted below, visitors, who are not excepted persons, will be granted entry into Court facilities only upon providing proof that they have been fully vaccinated against COVID-19. Acceptable proof of vaccination shall consist of that person's vaccination card or a recognized application, such as the Docket mobile phone application record or any similar State specific application that produces a digital health record, accompanied by proof of identification.

2. Those visitors who are not excepted persons, and who fail to provide proof of full vaccination, including those who decline to disclose their vaccination status, will be granted entry only upon presenting proof of a negative result from a PCR test (not a rapid test) taken no more than 72 hours prior to seeking entry, and proof of identification.

3. The term “visitor(s)” herein expressly includes, but is not limited to: attorneys; criminal defendants, including federal detainees; government agents; investigators; employees of counsel; parties or party representatives in civil matters; witnesses; employees of state and federal law enforcement agencies, including Deputy U.S. Marshals and Court Security Officers; members of the press; observers of court proceedings; contractors; and vendors.

4. All persons, including those denied entry into Court facilities, for failure to provide proof of full vaccination or of a negative COVID-19 test result, may deposit and date-stamp papers in drop boxes at each Courthouse entrance, Monday through Friday, during the hours posted on the Court’s website.

5. Until further Order of the Court, all of the Court’s safety protocols, established by earlier Standing Orders, remain in place. That is, masks completely covering the nose and mouth are still required of all entrants to, and occupants of Court facilities, regardless of vaccination status, in all public areas of Court facilities. All persons seeking entry to Court facilities, including fully vaccinated persons, must abide by the entry screening processes of temperature screening and hand sanitizing. Additionally, all occupants of Court facilities must observe markings and instructional signage regarding masks, social distancing, occupancy restrictions and hand sanitizing.

6. Masked persons within Court facilities may be asked to lower their masks briefly for identification purposes, in compliance with safety and security requirements, and the removal of masks may also be ordered at the discretion of the judicial officer before whom masked persons appear.

IT IS FURTHER ORDERED, regarding federal detainees specifically, that:

1. Federal detainees housed in detention centers in this District who are not fully vaccinated must be tested for COVID-19 prior to appearing for in-person court hearings, and where practicable and when space allows, said detention centers shall hold those detainees in quarantine, in between the test's administration and the hearing, to protect against further exposure before transport to the Court.

2. As test results may not be available prior to initial court appearances, the use of video conferencing, or teleconferencing if video conferencing is not readily available, remains appropriate for initial appearances, arraignments, detention hearings, and preliminary hearings, upon the consent of the defendant, to the extent consistent with the CARES Act and this Court's Second Extension of Standing Order 2021-03.

3. The United States Attorney's Office must notify the United States Marshals Service of any in-person hearing for an in-custody defendant 7 days prior to the hearing to ensure that the detention center housing that defendant has sufficient time to administer the test, and to avoid any unnecessary testing for canceled or moved hearings.

IT IS FURTHER ORDERED that consenting parties in a civil jury trial may move before the presiding judicial officer to request that all sitting jurors be fully vaccinated.

IT IS FURTHER ORDERED that:

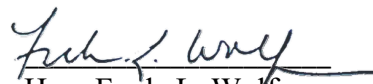
1. The United States Marshal, his Deputies, and the Court Security Officers shall enforce this Order.

2. This Standing Order does not affect the COVID-19 mandatory vaccination policy previously established for Court employees.

3. This Order shall take effect on September 20, 2021.

4. The Court shall continue to closely monitor the public health emergency created by the COVID-19 pandemic and amend this Order, or enter additional Orders, as circumstances warrant.

DATED: September 13, 2021


Hon. Freda L. Wolfson
U.S. Chief District Judge
District of New Jersey

September 3, 2021

At: 5:20 p.m.

William T. Walsh

Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: COURT OPERATIONS UNDER THE :
EXIGENT CIRCUMSTANCES CREATED : **UPDATED AMENDED**
BY COVID-19 : **STANDING ORDER 2021-04**

WHEREAS, the transmission of COVID-19 has recently increased, due to the delta and other variants, and on July 27, 2021, the CDC recommended that all persons, including those fully vaccinated against COVID-19, wear a mask in public indoor settings, in areas of substantial or high transmission; and

WHEREAS, all 21 counties of New Jersey are now areas of high transmission, and accordingly, this Court has expanded its efforts to mitigate the spread of the virus by mandating full vaccination of its employees, while continuing its protocols of temperature screening and hand sanitizing by all entrants to the District's courthouses, and mask wearing in all public areas of Court facilities by entrants and occupants thereof, regardless of vaccination status; and

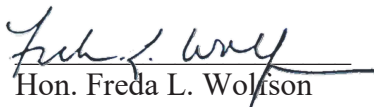
WHEREAS, it is therefore necessary that this Court continue to minimize contact among persons, while at the same time, preserve its core mission of serving the public through the fair and impartial administration of justice; and

NOW, THEREFORE, to further the health and safety of Court personnel, counsel, litigants, other case participants, jurors, security personnel and the general public, and to reduce the number of gatherings necessarily attendant to jury selection and trials in all vicinages of this Court, the Court deems it necessary and appropriate to amend Amended Standing Order 2021-04, and ORDERS as follows:

1. No more than one jury selection, either civil or criminal, shall occur in each vicinage of this Court at one time;
2. Multiple, simultaneous jury trials may be conducted in each of this Court's vicinages, but the number of simultaneous criminal jury trials involving detainees in each vicinage shall be limited by the capacity of the United States Marshals Service to manage the detainees, taking into consideration the number of cells available in the vicinage and the necessity of limiting each cell to one detainee, due to the ongoing COVID-19 pandemic;
3. Pursuant to this Court's Amended Standing Order 2021-02, until further Order of the Court, judicial proceedings, in both criminal and civil matters, shall continue to be conducted via video and teleconference whenever possible, to the extent consistent with the Second Extension of Standing Order 2021-03 ("In Re: Video Conferencing and Teleconferencing for Criminal Proceedings Under the CARES Act"); and

4. Except as otherwise provided herein, the provisions of Amended Standing Order 2021-04 shall remain in full force and effect; and
5. Additional Orders addressing Court Operations Under the Exigent Circumstances Created by COVID-19 shall be entered as warranted.

DATED: September 3, 2021


Hon. Freda L. Wolfson
U.S. Chief District Judge
District of New Jersey

June 24, 2021

At: 8:00 a.m.

William T. Walsh

Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: TERMINATION OF THE PATENT :
PILOT PROJECT; REPEAL OF L. PAT. R. 1.5, : **STANDING ORDER 2021-06**
L. CIV. R. 40.1(f) and APPENDIX T :

Due to the upcoming termination, on July 4, 2021, of the Patent Pilot Project, established pursuant to Pub. L. No. 111-349, this Court determines that there is an immediate need to amend its Local Civil Rules, so as to repeal L. Pat. R. 1.5, L. Civ. R. 40.1(f) and Appendix T, governing procedures for Patent Pilot Project cases.

IT IS THEREFORE, on this 24th day of June 2021, ORDERED THAT this Court's Local Civil Rules are amended to read as follows:

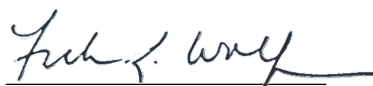
L. Pat. R. 1.5 Patent Pilot Project. [Repealed effective July 6, 2021].

L. Civ. R. 40.1

(f) Patent Pilot Project Cases. [Repealed effective July 6, 2021].

APPENDIX T. PROCEDURES FOR PATENT PROJECT CASES [Repealed effective July 6, 2021].

IT IS FURTHERED ORDERED THAT the "Appendix T" designation is reserved for future use.


Hon. Freda L. Wolfson
U.S. Chief District Judge
District of New Jersey