

**STANDING ORDER REGARDING LETTER BRIEF AND BRIEFING PROCEDURES
FOR EARLY MARKMAN HEARING/SUMMARY JUDGMENT OF NON-
INFRINGEMENT REQUESTS**

One of the Court’s goals is, as much as possible, to decrease litigation costs for the parties. To that end, and to sharpen the Court’s focus on the dispositive or most important issues, the Court will permit Defendant to submit, if desired, a request to construe no more than three “case dispositive” claim terms in a letter brief. The letter brief shall explain the Defendant’s proposed constructions of the term(s) and why such a construction will dispose of the case. The letter brief is due no later than 145 days before the *Markman* hearing.¹

Opening letter briefs and responsive letter briefs shall be no longer than 5 pages. Reply briefs shall be no longer than 3 pages. Letter briefs shall be filed without exhibits. Good cause must be shown to submit letter briefs after the deadline outlined above.

The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and determine whether the filing of any brief will be permitted. Should Defendant’s request be granted, parties shall provide, no later than 100 days before the *Markman* hearing, the name, address, phone number, and curriculum vitae for up to three agreed technical advisors and information regarding the nominees’ availability for the *Markman* hearing or a statement that they could not reach an agreement as to any potential technical advisor. If the parties cannot agree on a technical advisor, they shall not submit any proposed technical advisors to the Court.

If Defendant’s request is granted, the briefing schedule for claim construction/summary judgment is as follows:

Combined Motion for Summary Judgment

¹ See the Court’s website for response and reply deadlines.

and claim construction brief: 95 days before *Markman*
Response: 80 days before *Markman*
Reply: 73 days before *Markman*

The opening and response briefs shall not exceed 15 pages, respectively. Any replies shall not exceed 5 pages. Parties should note that there is no need for experts during this stage of the litigation. The goal here is to determine whether the case can be resolved without the need of extensive expert involvement. Deadlines for expert opinions and reports remain in place as indicated by the Docket Control Order.

After the briefing period has concluded, the Court will then hold an early *Markman* hearing on the identified case dispositive terms. If the case is not resolved following the Court's claim construction summary judgment rulings, a *Markman* hearing, as set forth in the Docket Control Order or at the patent status conference, will occur as scheduled.

So ORDERED and SIGNED this 9th day of January, 2012.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE