

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

**STANDING ORDER REGARDING THE USE OF
LIVE TESTIMONY DURING CLAIM CONSTRUCTION PROCEEDINGS IN
CASES ASSIGNED TO UNITED STATES DISTRICT JUDGE RODNEY GILSTRAP**

WHEREAS, with regard to future claim construction hearings before this Court, it is assumed that the majority of such hearings shall be focused solely on the intrinsic record and will not require the Court to make subsidiary factual findings related to such constructions; however, the Court recognizes that in some cases the Court may be called upon to go beyond the intrinsic record only and such efforts may, on occasion, require the Court to act as a fact finder regarding certain subsidiary facts. Accordingly, IT IS ORDERED THAT without prior leave of this Court permitting a party to call witnesses as a part of any claim construction hearing (in person or by deposition), such live testimony will not be permitted at claim construction hearings before this Court. Without such leave, witness testimony for the purposes of claim construction shall be submitted solely by way of exhibits, such as sworn declarations, attached to a party's claim construction briefing. Leave to call live witnesses at claim construction hearings before this Court may be sought—by a party that has otherwise complied with the Court's rules—by filing a motion supported by a clear showing of good cause presented in detail. Such motions must also be filed in a timely manner that do not work a surprise or hardship upon opposing parties, their counsel, or the Court.

This Standing Order supplements but does not supersede the Rules of Practice for Patent Cases before the Eastern District of Texas and is not intended to alter the standard procedures for claim construction discovery.

So ORDERED and SIGNED this 26th day of May, 2015.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE