

## JUDGE CAMPBELL'S PATENT RULES

### 1. Scope of Rules

These are my Rules of Practice for patent cases.

These Rules apply to all civil actions where I am the judge which allege infringement of a utility patent in a complaint, counterclaim, cross-claim or third party claim, or which seek a declaratory judgment that a utility patent is not infringed, is invalid or is unenforceable. Counsel for the party alleging infringement or seeking a declaration of noninfringement must ensure that counsel for all parties in the case receive a copy of these Rules. I may accelerate, extend, eliminate or modify the deadlines set forth in these Rules based on the circumstances of any particular case, including, without limitation, the complexity of the case or the number of patents, claims, products, or parties involved.

With my approval, the parties may accelerate, extend, eliminate, enlarge or modify the deadlines set forth in these Rules based on the particular circumstances of the case. When possible, the parties should stipulate to all proposed changes. For all proposed changes, there must be a brief explanation of the reason for the change in the Patent Case Management Statement. If a party opposes the change, that party must briefly explain the reason.

### 2. Governing Procedure

A. Initial Case Management Conference When the parties confer with each other pursuant to FRCivP 26(f), in addition to the matters covered by FRCivP 26, the parties must discuss and address in the Case Management Statement filed pursuant to FRCivP 26(f) and Civil L.R. 16-9, the following topics:

- (1) Proposed modification of these Rules in your case;
- (2) The scope and timing of any claim construction discovery, including disclosure and discovery of expert testimony;
- (3) The format of the *Markman* hearing, including whether the Court will hear live testimony, the order of presentation, and the estimated length of the hearing;
- (4) The identification and numbering of Common Exhibits pursuant to Rule 15 of these Local Patent Rules;
- (4) If and how the parties intend to educate the Court on the technology at issue.

B. Confidentiality Discovery cannot be withheld on the basis of confidentiality absent Court order. The Protective Order authorized by this Court's Local Rules, shall govern discovery unless the Court enters a different

protective order. The approved Protective Order can be found on the Court's website.

- C. Certification of Disclosures All statements, disclosures, or charts filed or served in accordance with these Patent Local Rules shall be dated and signed by counsel of record. Counsel's signature shall constitute a certification that to the best of his or her knowledge, information and belief, formed after inquiry that is reasonable under the circumstances, the information contained in the statement, disclosure, or chart is complete and correct at the time it is made.
- D. Admissibility of Filings Made Pursuant to these Rules. Statements, disclosures and charts required by these Rules are not admissible for any purpose other than in connection with the procedures and filings required by these Rules and extension or modification of those procedures and sanctions for failure to comply with these Rules.
- E. Relationship to Federal Rules of Civil Procedure Except as provided in this paragraph or otherwise ordered, it shall not be a legitimate ground for objecting to a discovery request or declining to provide information otherwise required to be disclosed pursuant to FRCivP 26(a)(1) that the discovery request or disclosure requirement is premature in light of or conflicts with these Patent Rules. A party may object to responding to the following categories of discovery requests (or decline to provide information in its initial disclosures under FRCivP 26(a)(1)) on the ground that they are premature under the timetable provided in these Patent Rules:
- (1) Requests seeking to elicit a party's claim construction position;
  - (2) Requests seeking to elicit from a party asserting infringement a comparison of the asserted claims to an Accused Instrumentality
  - (3) Requests seeking to elicit from an accused infringer a comparison of the asserted claims to the prior art; and
  - (4) Requests seeking to elicit from an accused infringer the identification of any opinions of counsel and related documents that it intends to rely upon as a defense to an allegation of willful infringement.
  - (5) Where a party properly objects to a discovery request (or declines to provide information in its initial disclosures under FRCivP 27(a)(1)) as set forth above, that party shall provide the requested information on the date on which it is required to provide the requested information under these Patent Rules, unless there exists another legitimate ground for objection.
  - (6) Discovery under these Rules shall not preclude the taking of other discovery allowed under the FRCP, nor shall these Rules affect the timing of such discovery, absent express prohibition in these Rules of such discovery or limitations on the timing of such discovery.

### **3. Preliminary Infringement Contentions**

- A. Disclosure of Accused Instrumentalities Not later than the date of the Initial Case Management Conference, a party asserting patent infringement shall serve upon each party accused of infringement a preliminary list identifying each accused apparatus, method, or other instrumentality (“Accused Instrumentalities”) accused of infringement. The identification shall be made with particularity, *e.g.*, name, model, etc.
- B. Preliminary Infringement Contentions Not later than 90 days after the Initial Case Management Conference, a party asserting patent infringement shall serve on all parties a Disclosure of Asserted Claims and Preliminary Infringement Contentions (“Preliminary Infringement Contentions”). The Preliminary Infringement Contentions shall contain the following information, separately for each accused infringer:
- (1) Identification of all claims of each patent in suit that is allegedly infringed, and for each accused infringer, the applicable statutory subsection of 35 U.S.C. § 271 asserted;
  - (2) A chart identifying specifically where and/or how each element of each asserted claim is found within each Accused Instrumentality, including for each element 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;
  - (3) For each claim alleged to have been indirectly infringed, identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or induce that direct infringement. Insofar as alleged direct infringement is based on the joint acts of multiple parties, the role of each such party shall be described.
  - (4) Whether each limitation of each asserted claim is asserted to be present in the Accused Instrumentality literally or under the Doctrine of Equivalents.

### **4. Preliminary Infringement Discovery**

- A. Preliminary Discovery Related to Accused Instrumentalities
- (1) At the time the list of Accused Instrumentalities is served, the party asserting patent infringement may serve, if desired, discovery requesting information about the design, development, sale, offer for sale, manufacture, use and functionality of Accused Instrumentalities, including the identity of persons involved in or knowledgeable about the design, development, sale, offer for sale, manufacture, use and functionality of Accused Instrumentalities.

- (2) Not later than 30 days after service of the list of Accused Instrumentalities, each accused infringer shall produce all documents and things related to the design, development, sale, offer for sale, manufacture, use and functionality of Accused Instrumentalities made, used, sold or imported by it, as well as responses to the discovery referenced in Rule 4A(1) hereof.
  - (3) If the Accused Instrumentalities comprise or include software that is related to the allegation of infringement, the source code for such software shall be produced under Rule 4A(2) of this Rule.
  - (4) Parties asserting patent infringement shall be presumptively entitled to take one 30(b)(6) deposition of each accused infringer on the subjects of the design, development, sale, offer for sale, manufacture, use and functionality of Accused Instrumentalities and the individual depositions of two persons substantively involved in the design and development of the Accused Instrumentalities. Such depositions shall be taken during the period from the date of service of the list of Accused Instrumentalities and the date on which that party's Disclosure of Asserted Claims and Preliminary Infringement Contentions is due. The 30(b)(6) deposition referenced in this section is intended to be directed to infringement allegations, is preliminary in nature and is not intended to preclude the party taking the deposition from taking additional 30(b)(6) depositions on other topics.
- B. Disclosure of Priority Dates Where a party asserting infringement claims that a patent is entitled to a priority date earlier than the application date for that patent by reason of a prior application, the party asserting infringement shall identify the priority date to which it claims to be entitled. Such disclosure shall be made at the same time and as part of the Preliminary Infringement Contentions.
- C. Disclosure of Covered Instrumentalities If a party asserting patent infringement wishes to preserve the right to rely on the assertion that any apparatus, or process made, used or sold by it practices the claimed invention, that party shall identify, separately for each asserted claim, each such apparatus or process. Such disclosure shall be made at the same time and as part of the Preliminary Infringement Contentions.
- D. Disclosure of Willful Infringement Claim If a party asserting infringement alleges that the infringement is willful, that party shall state the basis for such allegation. Such disclosure shall be made at the same time and as part of the Preliminary Infringement Contentions.
- E. Document Production Accompanying Preliminary Infringement Contentions Simultaneously with the service of the Preliminary Infringement Contentions, each party asserting infringement shall produce the following documents to each opposing party or make such documents available for inspection and copying:

- (1) Documents sufficient to evidence sales, offers to sell, public uses, and public disclosures of the claimed invention prior to the date of application for the patent(s) in suit and all discussions and circumstances related to same. Production of documents as required by this Rule shall not constitute an admission that such documents evidence or are prior art.
- (2) All documents evidencing the conception, reduction to practice, design and development of the inventions claimed in the asserted claims, which evidence conception or reduction to practice prior to the date of the application for the patent(s) in suit or the priority date pursuant to Rule 4B of these Patent Rules.
- (3) A copy of the file history for each patent in suit.
- (4) All documents evidencing ownership of the patent(s) in suit by the party asserting infringement.
- (5) Documents sufficient to show the operation and functionality of Covered Instrumentalities identified pursuant to Rule 4C of these Patent Rules.

## **5. Preliminary Invalidity Contentions**

A. Preliminary Invalidity Contentions. Not later than 45 days after service of the Preliminary Infringement Contentions, each party asserting patent invalidity shall serve on all opposing parties its Preliminary Invalidity Contentions. The Preliminary Invalidity Contentions shall contain the following information:

- (1) Identification of each prior art patent, printed publication, prior use, sale, offer for sale, and prior invention that allegedly anticipates or renders obvious any asserted claim. Each prior art reference and event must be described with particularity.
- (2) For each prior art reference or event relied upon for the assertion of invalidity, a statement as to whether that prior art anticipates or renders obvious an asserted claim, and if so, which claim. If a party asserts obviousness, that party must identify the particular combination or combinations that render any asserted claim obvious and why.
- (3) A chart identifying where in each item of prior art each limitation of each asserted claim is found, including for each limitation that is alleged to be 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.
- (4) The basis for any allegation that an asserted claim is invalid under 35 U.S.C. § 112 for indefiniteness, non-enablement, or failure to comply with the written description or best mode requirements.
- (5) Any other basis for the assertion that an asserted claim is invalid.

## **6. Preliminary Invalidity Discovery**

### **A. Document Production Accompanying Preliminary Invalidity Contentions**

Simultaneously with the service of its Preliminary Invalidity Contentions, any party asserting invalidity shall produce or make available for inspection and copying the following:

- (1) Copies of all patents and printed publications identified in its Preliminary Invalidity Contentions.
- (2) All available information and documents related to prior sales, offers for sale, uses and prior inventions identified in its Preliminary Invalidity Contentions.
- (3) To the extent any prior art reference or information related to a prior art event is not in the English language, a translation of such reference or document shall be produced.

## **7. Amendment of Preliminary Contentions**

Amendment of Preliminary Infringement and Invalidity Contentions may only be made by order of the Court upon a timely showing of good cause. Leave to make amendments must be made within 30 days after the issuance of the Court's *Markman* ruling.

## **8. *Markman* Claim Construction Proceedings**

### **A. Exchange of Terms and Phrases to Be Construed**

- (1) Not later than 10 days after service of the Preliminary Invalidity Contentions, each party shall serve on all other parties a list of the claim terms and phrases that party contends should be construed by the Court, and shall identify any claim limitations that party contends are governed by 35 U.S.C. § 112(6)
- (2) The parties shall within ten days of exchanging the terms and phrases they wish to have construed meet and confer for purposes of finalizing this list, narrowing or resolving differences, and facilitating the preparation of the Joint Claim Construction and Prehearing Statement.
- (3) The parties shall jointly identify not more than ten claim terms or phrases to be construed per patent in suit. If possible, the parties shall agree on the claim terms comprising the ten terms to be construed. If the parties cannot agree, each party shall be entitled to a *pro rata* number of terms to be construed. Any party may seek relief from the Court as to the number of claim terms or phrases to be construed, based on the number of patents,

claims or parties, but the parties are strongly encouraged to limit the terms to be construed to ten per patent.

B. Exchange of Preliminary Intrinsic and Extrinsic Evidence

- (1) Not later than 20 days after the exchange of Terms and Phrases to be Construed, the parties shall serve on each other their preliminary proposed constructions of each claim term or phrase to be construed. For each element any party contends is governed by 35 U.S.C. § 112(6), the parties shall identify the claimed function and the corresponding structure(s), act(s) or material(s) identified in the specification as performing the claimed function.
- (2) As part of the exchange of preliminary claim constructions, each party shall identify all intrinsic and extrinsic evidence that party relies upon to support its claim construction position. Each item of extrinsic evidence shall either be identified by production number (if produced) or a copy shall be produced.
- (3) To the extent any party intends to rely upon the testimony of fact or expert witnesses in support of its claim construction position, that party shall provide a summary of the testimony of each such witness.
- (4) The parties shall within ten days of the exchange of their preliminary claim construction positions meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement.

C. Joint Claim Construction and Prehearing Statement Not later than 60 days after service of the Preliminary Invalidity Contentions, the parties shall complete and file a Joint Claim Construction and Prehearing Statement, which shall contain the following information:

- (1) The construction of those claim terms and phrases on which the parties agree.
- (2) Each party's proposed construction of each disputed claim term or phrase, together with an identification of all intrinsic and extrinsic evidence relied upon to support that construction or to contradict any opposing party's claim construction.
- (3) The anticipated time necessary for the *Markman* hearing.
- (4) Whether any party proposes to call one or more witnesses at the *Markman* hearing, and if so, the identity of all such witnesses and for each witness, a summary of the opinions and testimony that party expects to elicit from the witness in sufficient detail to permit a meaningful deposition of that expert (I do not generally allow such testimony).

- (5) A list of any other issues which might appropriately be taken up at a prehearing conference prior to the *Markman* hearing, and proposed dates, if not previously set, for any such prehearing conference.
- D. 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 related to claim construction, including depositions of fact and expert witnesses identified pursuant to these Patent Rules.
- E. Claim Construction Briefing
- (1) Not later than 45 days after serving and filing the Joint Claim Construction and Prehearing Statement, the party or parties asserting infringement shall serve and file an opening brief and evidence in support of its claim construction position.
- (2) Not later than 14 days after service of the opening claim construction brief upon it, each accused infringers shall serve and file a responsive brief and evidence in support of its claim construction position.
- (3) Not later than 7 days after service of the responsive brief referenced in subsection (b) of this Rule, the party asserting infringement shall serve and file its reply brief, if any, in support of its claim construction position.
- F. Markman Hearing As soon as the Court's calendar permits following submission of the reply brief specified in Rule 8E(3), the Court shall conduct a *Markman* hearing, to the extent the parties or the Court believe a hearing is necessary for construction of the claims at issue.

## **9. Disclosures Related to Reliance on Advice of Counsel**

- A. Disclosure of Reliance on Advice of Counsel Not later than 30 days after service by the Court of its *Markman* ruling, any party accused of willful infringement must serve on all parties a statement disclosing whether it will rely on advice of counsel as a defense to a charge of willful infringement.
- B. Production of Opinions of Counsel Any party electing to rely upon the advice of counsel as a defense to willfulness, shall, simultaneously with service of notice of its election, produce or make available for inspection and copying the opinion(s) and other documents relating to the opinion(s) as to which that party acknowledges the attorney-client privilege or work product protection has been waived.
- C. Disclosure Related to Oral Opinions If any oral opinion of counsel is relied upon, the party relying upon that opinion shall serve a statement upon the party asserting infringement a statement setting forth the date of the opinion, the identities of all persons giving and receiving the opinion(s), the content of the opinion, and produce all documents related to such opinion(s).

- D. Privilege Log Any party electing to rely upon the advice of counsel defense must, simultaneously with its notice of that election, serve a privilege log identifying all other documents (except those authored by counsel serving solely as trial counsel) relating to the subject matter of the opinion(s) on which the party relies and which are being withheld on the basis of attorney-client privilege and/or work product protection.
- E. Any party accused of willful infringement who does not comply with the provisions of this Rule shall not be permitted to rely upon the advice of counsel defense.

## **10. Amendment of Defenses**

It shall not be a ground for objection by plaintiff to discovery that it relates to defenses not pled by defendant, where the evidence needed to support these defenses is in whole or in part in the hands of the plaintiff.

Once plaintiff has given the necessary discovery, defendant may seek leave of Court to add defenses for which it alleges, consistent with F.R.C.P. 11, that it has support, and such support shall be explained in the motion seeking leave. Leave shall be liberally given where prima facie support is present, provided that defendant seeks leave as soon as reasonably possible following plaintiff's providing the necessary discovery.

## **11. Discovery Definitions**

In responding to discovery requests, each party shall construe broadly terms of art used in the patent field (e.g., "prior art," "best mode," "on sale"), and read them as requesting discovery relating to the issue as opposed to a particular definition of the term used. Compliance with this Order is not satisfied by the respondent including a specific definition of the term-of-art in its response, and limiting its response to that definition.

## **12. Expert Witnesses**

### **A. Expert Reports Generally**

- (1) Every expert report shall begin with a succinct statement of the opinions the expert expects to give at trial.
- (2) Unless leave of Court is applied for and given, there shall be no expert testimony at trial on behalf of the party having the burden of persuasion on any issue not covered in that party's Initial Expert Report.
- (3) Unless leave of Court is applied for and given, an expert shall not use or refer to at trial any evidence, basis or grounds in support of his/her opinion not disclosed in his/her expert report, except as set forth below.

B. Supplemental Expert Reports

- (1) Unless leave of Court is applied for and given, no expert reports other than Initial and Rebuttal Reports shall be permitted.
- (2) Any application for leave of Court to file additional expert reports shall:
  - (a) Include, as an attachment, the additional expert report sought to be used, in which the new issue, evidence, basis or ground is explained;
  - (b) Explain in detail why the issue, evidence, basis or ground was not, or could not be, included in the Initial or Rebuttal report; and
  - (c) Explain the prejudice to the submitting party if the additional expert report is not permitted, and the lack of prejudice to its opponent if the additional expert report is permitted.
  - (d) No application for leave to submit additional expert reports shall be filed later than 30 days before the Final Pretrial Conference.
  - (e) Within ten (10) days after the filing of an application for leave to file additional expert reports, the other party may file an opposition to the application, dealing with the issues of: (i) timeliness; (ii) prejudice; and (iii) what additional expert reports would be needed by the respondent if leave of Court is given to the movant.

C. Discovery From Experts

Anything shown or told to an expert relating to the issues on which he/she opines, or to the evidence, basis or grounds in support of or countering the opinion, is subject to discovery by the opposing party, except as set forth herein or otherwise agreed to by the parties.

The parties shall agree on: (i) whether drafts of expert reports and work papers underlying such reports should be retained and produced; and (ii) whether there shall be inquiry into whom, if anyone, other than the expert participated in the drafting of his/her report. In the absence of such an agreement, drafts of expert reports need not be produced, but inquiry into who participated in the drafting and what their respective contributions were is permitted. The Court will not entertain motions on these two issues. The parties shall reach agreement on these issues before the first expert report is due.

**12. Privilege Issues Common to Patent Cases**

If requested by defendant, plaintiff shall produce to it:

(a) all prior art cited against foreign counterparts of the U.S. application(s) for the patent(s)-in-suit; and

(b) all communications to or from foreign patent offices regarding counterparts of the U.S. application for the patent(s)-in-suit.

“Foreign counterparts” shall be interpreted broadly and includes applications based on specifications similar to the specification for the patent(s)-in-suit, regardless of their claims.

Communications during patent prosecution between the inventor(s) and / or owner(s) of the patent(s)-in-suit on the one hand, and counsel or patent agents prosecuting the patent application(s) on the other, are presumptively privileged, and need not be produced by plaintiff unless defendant can state:

(a) with reasonable specificity what information it believes it will find in such communications, and the basis for such belief; and

(b) for what purpose it would use the information at trial.

If defendant makes the required showing, the documents in question will be produced to the Court for *in camera* inspection to determine whether they do, in fact, contain the information specified by defendant, whether it could be used for the purpose proposed by defendant, and whether the communications are subject to a privilege. The same conditions set forth herein shall apply to communications arising out of the prosecution of foreign patent applications related to the patent(s)-in-suit.

Absent an agreement of counsel to the contrary, if a party does not produce any document that is the subject of a request for production or an obligation to produce, the withholding party shall identify the withheld document(s) on a log of withheld documents (“Withheld Document Log”). For each document listed on the Withheld Document Log, the following information must be given:

(a) the author(s);

(b) the recipient(s);

(c) the position held by each author and each recipient, including whether they are lawyers;

(d) the date;

(e) the basis or bases for withholding the document;

(f) a description of the document in such detail that the requesting party can determine whether to challenge the basis or bases set forth pursuant to (e), (e.g., that “the document contains legal advice from X to Y concerning the subject of marking with the patent number”).

### **13. Inventor Depositions**

In depositions of the inventor(s) of the patent(s)-in-suit, there shall be no instruction by the patentee's counsel not to answer questions posed by counsel for the defendant related to the meaning of claim terms and the scope of the claimed invention. Questions calling for the inventor(s) to state an opinion or interpret a document relevant to issues in the case must be answered if the inventor(s) has an opinion or considers himself able to give an interpretation. The inventor can decline to answer the question only if, in truth, the inventor(s) has no opinion or is unable to interpret the document; but the inventor(s) shall then be barred from giving such opinion interpreting such document at trial, and opposing counsel may advise the fact finder at trial of the inventor's declining to answer.

### **14. Numbering of Exhibits**

All parties to patent cases pending before me shall comply with the following rules related to the numbering of exhibits.

- (a) Sequential Numbering All exhibits marked during discovery shall be numbered sequentially, without regard for the identity of the party marking the exhibit. Only one exhibit number shall be assigned to any given document. Documents used as exhibits at trial that were also marked as exhibits during discovery shall bear the same exhibit numbers they were assigned during discovery.
- (b) Duplicate Exhibits Any exhibit which is an exact duplicate of a previously numbered exhibit shall bear the same exhibit number regardless of the identity of the party marking the exhibit. Any version of an exhibit which is not an exact duplicate shall be marked and treated as a different exhibit bearing a different exhibit number.
- (c) Inadvertent Numbering of Duplicate Exhibit If, through inadvertence, the same exhibit has been marked with different exhibit numbers, the parties shall assign the lowest such exhibit number to the exhibit and conform all depositions transcripts and exhibits to reflect the lowest number. The superseded number shall not be reused by the parties.

### **15. Identification and Electronic Filing of Common Exhibits**

Patent cases typically involve a large number of exhibits, many of which are voluminous. The same exhibits are often filed as attachments to multiple memoranda. The reproduction, storage, organization and use of such voluminous exhibits is costly, labor intensive, and inefficient. The identification of commonly used exhibits ("Common Exhibits") and the filing of such exhibits a single time would conserve time, money, and effort. I therefore order that all parties to patent litigation pending before me shall comply with the following rules for the identification and filing of Common Exhibits.

- (a) Identification of Common Exhibits As part of the Initial Case Management Conference, the parties shall discuss and identify exhibits they believe will be Common Exhibits. Examples of Common Exhibits include such things as the patents in suit, the prosecution histories of such patents, important prior art references, expert reports, etc. The parties shall confer and agree on the identity of Common Exhibits during the Initial Case Management Conference, assign exhibit numbers to such Common Exhibits and shall disclose the identity and their respective exhibit numbers in the Case Management Statement. The patent-in-suit shall be Common Exhibit 1 and the prosecution history for that patent shall be Common Exhibit 2. If there are multiple patents-in-suit, the patents-in-suit shall be Common Exhibits 1, 2, etc., and the prosecution histories for the patents-in-suit shall be assigned the next sequential exhibit numbers. For example, if there are two patents-in-suit, they will be assigned Common Exhibits numbers 1 and 2, and the prosecution histories for those patents will be assigned Common Exhibits 3 and 4. All Common Exhibits except deposition transcripts shall be filed in their entirety, so as to allow the parties to reference any part of such exhibits as the need arises. In other words, all pages of the prosecution history(ies), all pages of the patent(s)-in-suit, all pages of expert reports, etc. shall be filed when such Common Exhibits are filed with the Court.
- (b) Filing of Common Exhibits
- (i) Initially Identified Common Exhibits. Before the Initial Pre-Trial Conference, the plaintiff shall e-file electronic copies of the Common Exhibits identified in the Initial Case Management Conference with the Court. The initially identified Common Exhibits shall be filed under the “Exhibit” option of the “Other” category of events in PACER. The initially identified Common Exhibits shall be exhibits to a paper entitled “Initial Common Exhibits.”
- (ii) Subsequently Identified Common Exhibits As the parties identify Common Exhibits in addition to those initially identified, such additional Common Exhibits shall be e-filed with the Court in the same fashion as the initially identified Common Exhibits, except that they shall be identified as “Additional Common Exhibits \_\_-\_\_,” and be assigned their own docket entry number.
- (c) Use of Electronically Filed Common Exhibits. All references to Common Exhibits in motions, memoranda and other papers filed with the Court shall be by reference to the docket entry number and exhibit number corresponding to the Common Exhibit in question. Page number references shall be to the page numbers assigned to the exhibits by PACER. For example, reference to the prosecution history in a suit involving a single patent would be “DE \_\_, Exh. 2, at \_\_.” No hard or electronic copies of Common Exhibits shall be filed with the Court after the first time electronic copies of such exhibits are e-filed.

