



#### **4. Additional disclosures [in patent non-ANDA cases only].**

In patent non-ANDA cases, the comprehensive joint report of the Rule 26(f) meeting shall include proposed dates for the exchange, in steps, of required information to plan for a Markman hearing as soon as practicable under Fed.R.Civ.P. 1:

- a. Plaintiff shall identify the accused product(s), including accused methods and systems, and its damages model, as well as the asserted patent(s) that the accused product(s) allegedly infringe(s). Plaintiff shall also produce the file history for each asserted patent.
- b. Defendant shall produce core technical documents related to the accused product(s), sufficient to show how the accused product(s) work(s), including but not limited to non-publicly available operation manuals, product literature, schematics, and specifications. Defendant shall also produce sales figures for the accused product(s).
- c. Plaintiff shall produce an initial claim chart relating each known accused product to the asserted claims each such product allegedly infringes.
- d. Defendant shall produce its initial invalidity contentions for each asserted claim, as well as the known related invalidating references.
- e. The exchange of final infringement contentions.
- f. Finally supplement, among other items, the identification of all accused products and of all invalidity references.
- g. Date for Markman hearing and scope of Markman hearing

#### **5. Formal discovery**

Discovery begins with the issuance of our Order setting the Initial Pretrial Conference. Describe written discovery issued or taken to date including mandated disclosures under Rule 26(a). Indicate nature, sequence and timing of written discovery, as well as any need to conduct discovery in phases to prepare for the filing of motions or for settlement discussions. The parties shall address focusing discovery on the subjects and sources most clearly proportional to the case needs. Specifically delineate what discovery will be conducted formally.

The discovery deadline will normally be no more than ninety days after the initial Rule 16

Order scheduling the Initial Pretrial Conference. The parties need to describe believe there are compelling reasons for a different discovery period if warranted. The parties shall also disclose a need for an Order under Federal Rule of Evidence 502.

## **6. Electronic discovery**

The parties are required to address procedures to preserve electronically stored information, to avoid inadvertent privilege waivers, and to determine the form in which electronic information will be produced. The cost of producing the information must be discussed and be addressed in this report.

It is expected that the parties will reach an agreement on how to conduct electronic discovery. In the event the parties cannot reach such an agreement before the Rule 16 scheduling conference, the court will enter an order incorporating default standards. The default order can be viewed under Judge Kearney's policies at [www.paed.uscourts.gov](http://www.paed.uscourts.gov).

## **7. Expert witness disclosures**

Indicate agreement on anticipated testimony of expert witnesses, including whether depositions of experts will be needed.

The parties should expect that the Court requires expert reports to be exchanged simultaneously, witness rebuttal reports required shortly thereafter, and expert discovery to be completed with fact discovery.

## **8. Settlement or resolution**

All cases will be sent to the Magistrate Judge or private mediation for early settlement discussions. The parties must familiarize themselves with Local Rule 53.3 before responding.

Fully explain when mediation would be appropriate.

## **9. Trial**

A firm trial date will be scheduled at or shortly after the pre-trial conference. Please advise of trial attachments (not pool listings), pre-paid vacation, medical plans or other irreversible conflicts for lead trial counsel in the following four (4) to eight (8) months.

## **10. Referral to Magistrate Judge**

Please provide a statement whether all parties agree to a referral of this case to a Magistrate Judge for trial.<sup>1</sup>

---

<sup>1</sup> Magistrate Judges are authorized, with agreement of the parties, to try any civil case, jury or non-jury, with appeals filed directly with the Court of Appeals.

**11. Other matters**

Describe your discussion and agreement on matters not addressed above but which will affect the just and timely resolution of the case under Fed.R.Civ.P. 1.

---

(Counsel for Plaintiff)

---

(Counsel for Defendant)