

EXCHANGE OF PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

(a) Not later than 21 days after the exchange of the lists pursuant to Dist. Idaho Loc. Patent R. 4.1, the parties shall simultaneously exchange proposed constructions of each term identified by either party for claim construction. 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 references from the specification or prosecution history that support its proposed construction and designate any supporting extrinsic evidence including, without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses. Extrinsic evidence shall be identified by production number or by producing a copy if not previously produced. With respect to any supporting witness, percipient or expert, 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) The parties shall thereafter meet and confer for the purposes of narrowing the issues, jointly identifying up to a maximum of 10 terms per unrelated patent likely to be most significant in resolving the parties' dispute, including those terms for which construction may be case or claim dispositive, and finalizing preparation of a Joint Claim Construction and Prehearing Statement. For purposes of Dist. Idaho Loc. Patent R. 4.2, 4.3 and 4.5, a patent and any continuation, divisional, reexamined or reissued patent that claims priority to the same patent application are considered "related."

(d) The number of terms per unrelated patent that are identified under Dist. Idaho Loc. Patent R. 4.2(c) and 4.3(c) and addressed by the parties' claim construction briefs under Dist. Idaho Loc. Patent R. 4.5 may be modified by the Court at the initial scheduling conference pursuant to Dist. Idaho Loc. Patent R. 2.1(a)(1) or by stipulation of all parties. If all parties stipulate to a different limitation, the parties' stipulation shall be reflected in the Joint Claim Construction and Prehearing Statement.